



MINUTES OF THE COMMON COUNCIL

TUESDAY, JULY 19, 2016, 7:00 P.M.

COUNCIL CHAMBERS

ROOM 203, CITY HALL

Roll call: Mayor James J. Schmitt, Deputy City Clerk Anita M. Raleigh, City Attorney Vanessa Chavez. Alderpersons: B. Dorff, T. DeWane, A. Nicholson, W. Galvin, D. Nennig, J. Moore, R. Scannell, C. Wery, G. Zima, M. Steuer, J. Vander Leest, T. Sladek. Excused: None.

Pledge of Allegiance.

Mayor Schmitt led the Invocation.

Moved by Ald. Nicholson, seconded by Ald. Scannell to approve the minutes of the June 21, 2016, meeting. Motion carried.

Moved by Ald. Nicholson, seconded by Ald. DeWane to approve the agenda. Motion carried.

REPORT BY THE MAYOR

Mayor Schmitt gave a report of his recent trip to the United States Conference of Mayors in Indianapolis. He stated that he had the honor of being elected as one of its Trustees.

PUBLIC HEARINGS

Zoning Ordinance No. 11-16

An ordinance amending Zoning Ordinance No. 2-01 to permit a modified setback along the Military Avenue Access Road as part of the Planned Unit Development Overlay District for 1400 Lombardi Avenue.

No one appeared.

Zoning Ordinance No. 12-16

An ordinance rezoning property located at 1930 Bart Starr Drive from General Industrial (GI) District to General Commercial (C1) District.

No one appeared.

Moved by Ald. Moore, seconded by Ald. Scannell to suspend the rules for the purpose of adopting the Zoning Ordinances. Motion carried.

PRESENTATION

Scott Stein, representing Leonard & Finco, gave a presentation on the Fox River Cleanup.

RE-APPOINTMENTS

Stadium District Board

Ann Patteson

Keith Zimmerman

Ron Antonneau

Terms to expire July 1, 2018

Moved by Ald. Moore, seconded by Ald. Scannell to confirm the appointments. Motion carried.

PETITIONS & COMMUNICATIONS

FINANCE COMMITTEE

Request by Ald. Dorff that the Finance Director provide a report describing the wheel tax process and projecting the revenue a wheel tax would generate to use for roads as a means of eliminating or greatly reducing the individual assessments currently used for this purpose.

Request by Ald. Nennig to consider asking the Economic Development Authority and Economic Development staff for suggestions on the use of excess stadium funds that may be directed for economic development.

FINANCE COMMITTEE AND PERSONNEL COMMITTEE

Request by Ald. DeWane to have Chief Litton and Chief Smith bring forward a plan they feel is needed (including cost) to make sure our Police and Fire Departments are protected in case of emergencies uncommon to our City.

IMPROVEMENT & SERVICE COMMITTEE

Request by Ald. Zima that the City consider placing a sidewalk through Seymour Park to connect S. Oakland Avenue that is divided by the park using neighborhood enhancement or regular City funds.

Application for a Concrete Sidewalk Builder's License by N & L Concrete Construction, LLP.

MAYOR'S OFFICE

Request by Ald. Moore to adopt a policy that staff reports and memos that are not deemed to be confidential be electronically shared with media and public. This pertains to amendments and additions to the appendix of supplemental information for Council meetings.

PROTECTION & WELFARE COMMITTEE

Application for an available "Class B" Combination License by El Presidente Green Bay, LLC at 219 N. Washington Street.

Request by the owners of Buddha's Still Sports Bar & Grill, 2148 University Avenue, to hold an outdoor event on August 28.

PROTECTION & WELFARE COMMITTEE AND CITY ATTORNEY'S OFFICE

Request by Ald. Zima that the City Attorney provide a lettered opinion to the City Council, as well as the citizens of Green Bay, regarding the constitutionality of the following:

- A. The City of Green Bay's Code of Conduct
- B. The application of the City of Green Bay's Ethics Code outside of financial conflicts of interest.

PEDESTRIAN, BIKE & TRAFFIC COMMISSION

Request by Ald. Scannell to possible change the "No Stop or Standing" spaces on the north side of Cherry Street, west of Washington Street to either 1-hour parking between 7:00 A.M. and 3:00 P.M. or parking meters possible between 7:00 A.M. and 3:00 P.M.

Request by Ald. Galvin to investigate and develop a plan to better mark our crosswalks to make them more visible and safer.

Request by Ald. Galvin to develop a year-long plan for educating drivers, pedestrians and bicyclists to be more aware of each others use of roadways, to include enforcement to make our roadways more safe for all to use.

Request by Ald. Galvin to develop more and better marked bicycle paths on more City streets to allow bicyclists more access to our streets.

Moved by Ald. Scannell, seconded by Ald. VanderLeest to refer the petitions and communications to the appropriate Committee or Commission. Motion carried.

REPORTS FOR COUNCIL ACTION

REPORT OF THE PARK COMMITTEE

July 19, 2016

The Park Committee, having met on Wednesday, July 13, 2016, considered all matters on its agenda and wishes to report and recommend the following:

1. To approve and to enter into an agreement with the Bay Lakes Regional Planning Commission to use grant funding to control phragmites at all City parks within the grant boundary contingent upon the following:
 - All costs are the responsibility of the Bay Lakes Regional Planning Commission;
 - All proper permits and insurances being obtained;
 - City staff to approve the exact locations and timing of each spraying location.
2. To approve the request by the Creamery to allow tables, chairs, and garbage cans to be installed on City Deck to accommodate restaurant outdoor dining contingent upon the following:
 - All costs for purchase and installation are the responsibility of the Creamery;
 - All proper permits and insurances being obtained;
 - All parties agreeable to the conditions stated in the City Deck Use Agreement;
 - The term of the agreement is for one year and is renewable if all terms of the City Deck Use Agreement are adhered to.
3. To approve the request by the Creamery and Broken Spoke to host a grand opening and ribbon cutting event on the City Deck on Saturday, August 6, 2016, contingent upon the following:
 - All costs of the event are the responsibility of the Creamery and Broken Spoke;
 - All proper permits and insurances being obtained;

- The Broken Spoke and Creamery are responsible for all security;
 - Must adhere to all noise ordinances and regulations;
 - No hard alcohol and no glass containers allowed on the City Deck;
 - Final approval of the City Special Event Committee.
 - Beer and wine must remain in designated area.
4. To award a contract for installation of a new asphalt walkway at Sullivan Park to MCC Inc. for \$25,054 and to authorize contingency work as necessary per the quote summary and report back any additional payments under the contract.

Moved by Ald. DeWane, seconded by Ald. Scannell to adopt the report. Motion carried.

Report of the Green Bay Plan Commission July 19, 2016

The Green Bay Plan Commission, having met on Monday, July 11, 2016, considered all matters on its agenda and wishes to report and recommend the following:

1. To approve a Conditional Use Permit (CUP) for a Transient Residential use located at 1059 Shadow Lane, subject to the following conditions:
 - A. Compliance with the Development standards found in 13-1602(j), Green Bay Zoning.
 - B. Compliance with the submitted operating plan.
 - C. The rental agreement shall include contact information for the owner and an additional representative, as well as rules to ensure compliance with city nuisance regulation, and shall be submitted to the Planning Department.
2. To approve a Conditional Use Permit (CUP) to operate minor auto repair in a Light Industrial (LI) District at 1848 Brook Street, subject to the following conditions:
 - A. Compliance with all of the regulations of the Green Bay Municipal Code not covered under the Conditional Use Permit (CUP), including standard site plan review and permitting approvals.
 - B. All vehicle parts shall be stored inside of an enclosed building.
 - C. There shall be no expansion of the conditional use without Plan Commission and City Council approval.
3. To rezone the following parcels from General Commercial (C1) and Low Density Residential (R1) to Office Residential (OR): 1835 South Ridge Rd, Tax Parcel: 1-1423; 1825 South Ridge Rd, Tax Parcel: 1-1423-A-2; 1821 South Ridge Rd, Tax Parcel: 1-2192; 1297 Thorndale St, Tax Parcel: 1-2191; 1291 Thorndale St, Tax Parcel: 1-2190; 1818 Frank St, Tax Parcel: 1-2189; 1824-1826 Frank St, Tax Parcel: 1-2194; and create a Planned Unit Development (PUD) Overlay for the above subject parcels, subject to the following conditions:
 - A. The combination of all subject parcels into one Tax Parcel.
 - B. The draft Planned Unit Development (PUD) ordinance.

4. To approve a Conditional Use Permit (CUP) to authorize drive-thru for a coffee distributor at 1250 Block Velp Avenue, subject to the following conditions:
 - A. Velp Avenue driveway will be exit only.
 - B. Compliance with all of the regulations of the Green Bay Municipal Code not covered under the Conditional Use Permit (CUP), including standard site plan review and approval.
5. To rezone 1599 University Avenue from Low Density Residential (R1) and General Commercial (C1) to Light Industrial (LI); and the request to create a Planned Unit Development (PUD) Overlay for the subject property to permit the construction of self-service storage units, subject to the draft Planned Unit Development (PUD) ordinance.
6. To approve a Conditional Use Permit (CUP) for a Transient Residential use located at 1810 South Ridge Road, subject to the following conditions:
 - A. Compliance with the Development standards found in 13-1602(j), Green Bay Zoning.
 - B. Compliance with the submitted operating plan.
 - C. The rental agreement shall include contact information for the owner and an additional representative, as well as rules to ensure compliance with city nuisance regulation, and shall be submitted to the Planning Department
7. To vacate excess right-of-way at the intersection of Frank Street and Shadow Lane, subject to the following conditions:
 - A. A 12-ft. easement for Wisconsin Public Service's existing gas main in the vacated area is required.
 - B. The existing 8-ft. wide Crosswalk Easement (641R342) shall be extended northerly through vacated right-of-way, or conveyed to the City with a quit claim deed.
 - C. All expenses to remove and relocate sidewalk and curb & gutter and the cost to repave the intersection shall be at the sole cost of the requestor.
 - D. This Street Vacation shall be void if the Zoning Petition (16-18) for rezoning and the creation of a Planned Unit Development does not receive approval.
8. To approve the task order for the Velp Avenue Area-wide Plan.

Moved by Ald. Scannell, seconded by Ald. Nennig to adopt the report with the exception of Item #1. Motion carried.

Moved by Ald. Moore, seconded by Ald. Scannell to adopt Item #1.

Moved by Ald. Wery, seconded by Ald. Steuer to suspend the rules to allow interested parties to speak. Motion carried.

Mark Anderson, 1063 Shadow Lane, spoke against the permit. He stated that he had presented Ald. Wery with a petition with 33 signatures of people also against the permit. Attorney Kornowske, Gerber's Law, 2391 Holmgren Way, representing the owners, Lambeau Field Investments, LLC, presented information concerning the permit and

passed out a draft copy of the rental agreement.

Moved by Ald. Nicholson, seconded by Ald. DeWane to return to the regular order of business. Motion carried.

Moved by Ald. Wery, seconded by Ald. Zima to deny the permit.

Moved by Ald. DeWane, seconded by Ald. Moore to refer Item #1 back to the Plan Commission.

Roll call: Ayes: Dorff, DeWane, Nennig, Moore, Scannell, Steuer, Vander Leest, Sladek. Noes: Nicholson, Galvin, Wery, Zima. Motion carried.

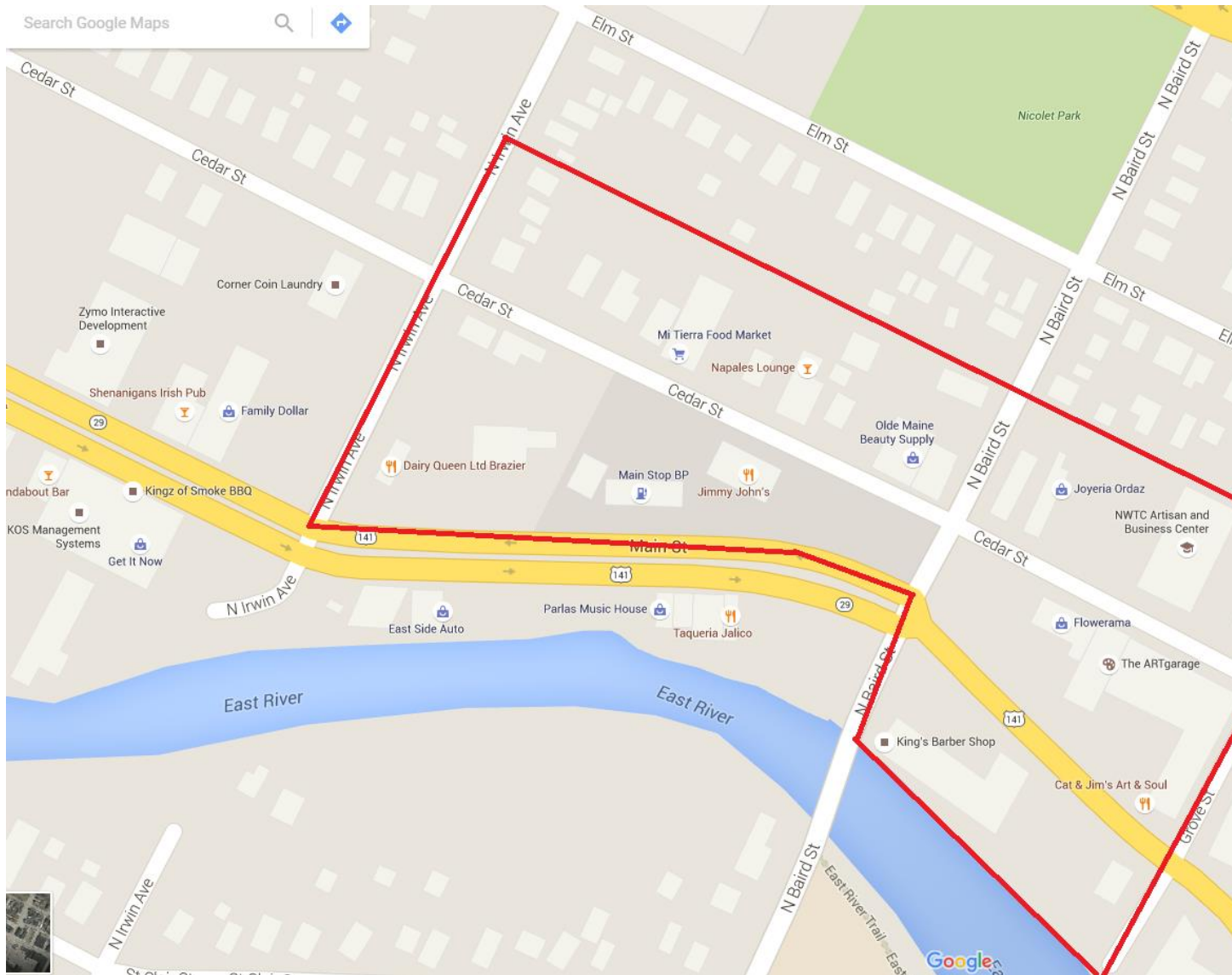
Moved and seconded to suspend the rules for the purpose of advancing Zoning Ordinances 13-16 and 14-16 to the third reading. Motion carried.

REPORT OF THE GREEN BAY REDEVELOPMENT AUTHORITY July 19, 2016

The Green Bay Redevelopment Authority, having met on Tuesday, July 12, 2016, considered all matters on its agenda and wishes to report and recommend the following:

1. To refer to staff the communication from June 21, 2016, of the Common Council by Ald. Moore for a schedule and plan on disposing of properties recently acquired from Brown County with Neighborhood Enhancement Funds
2. To refer to staff the communication from June 21, 2016, of the Common Council by Ald. Moore to work with Tundra Lodge on their leisure pool project to maximize the project and increase tax base, regardless of inclusion of a competitive events pool.
3. To approve the First Amendment to Development Agreement Titledown Brewing Expansion-Larsen Green (copy attached).
4. To approve the Term Sheet for 1901-1931 Main Street (copy attached).
5. To officially designate the area on Main Street, as mapped in the attachment, as a blight district.

Map of Cedar/Main Blight District



TERM SHEET #16-03

1901-1931 MAIN STREET

This Term Sheet is made this 20th day of July,
by THE CITY OF GREEN BAY, a Wisconsin municipal corporation (“City”),
THE REDEVELOPMENT AUTHORITY OF THE CITY OF GREEN BAY (“RDA”),
and GB REAL ESTATE INVESTMENTS, LLC, a Wisconsin limited liability company (“Developer”).

RECITALS

- A. Developer has proposed to acquire and develop certain real property, identified for real estate tax purposes and address as:

<u>Tax Parcel</u>	<u>Address</u>	<u>Acres</u>
21-1323-1	1901 Main St.	0.475
21-1323-3	1911 Main St.	0.909
21-1323-4	1931 Main St.	1.071

- B. The parcels listed above shall be referred to as the "Property." The Property comprises approximately 2.455 acres of land. Developer proposes subdividing the property into three lots upon Project completion. A legal description of the Property is herein attached as EXHIBIT A.
- C. Developer intends to complete a Project, which involves the construction of three new structures: a banking institution on Tax Parcel 21-1323-1, a fast-food restaurant on Tax Parcel 21-1323-3, and a dental clinic on Tax Parcel 21-1323-4. The redevelopment requires additional engineering and environmental work because of historical dry cleaner contamination. All Project improvements shall be complementary to existing uses on adjacent properties. The Proposed Project improvements are shown on a Preliminary Concept Plan, which is herein attached as EXHIBIT B.
- D. The Property has a 2016 assessed value of \$641,500.00 which based on the mill rate in effect as of January 1, 2015, less real estate taxes payable to the State of Wisconsin, yielded \$14,036.02 to the City. Upon completion of Proposed Project, Developer estimates the aggregate assessed property value of the Property to be \$2,400,000.00, which based on the mill rate in effect as of January 1, 2016, less real estate taxes payable to the State of Wisconsin, will yield \$53,088.00 to the City.
- E. Pursuant to the provisions of §66.1105, Wis. Stats. (the "Tax Increment Law"), the City has included the Property within Tax Increment District No. Ten (10) (the "TID").
- F. Developer has requested Tax Incremental Finance ("TIF") assistance from the City and RDA with regard to certain expenses, including, but not limited to environmental remediation; demolition, remodeling, repair or reconstruction of existing buildings; clearing of land; construction of new buildings; or the construction of public works infrastructure, which will constitute qualified expenditures for which TIF assistance may be afforded Developer.
- G. The City and RDA desire to have Developer perform the Project in order to generate economic activity and tax base for the community consistent with the City Comprehensive Plan.
- H. In order to induce Developer to undertake the Project, such that blight will be eliminated, environmental hazards will be mitigated, and the public will generally benefit; the parties shall work in good faith to negotiate and execute definitive agreements, including a

Development Agreement, by October 1, 2016. The Development Agreement will contain terms consistent with this Term Sheet to the extent such terms are not modified through future reviews and approvals, as well as other terms, representations and warranties typical of comprehensive development agreements. If the parties have not executed and delivered a Development Agreement by October 1, 2016, any party may terminate negotiations without liability to any other party.

I. TAX INCREMENT FINANCING

- A. Qualification for TIF. Developer shall demonstrate to the satisfaction of City and RDA a need for TIF, with such determination to be made according to the “but for” test, that is, that but for the City and RDA providing TIF, the Project would not happen. At the request of the City or RDA, Developer shall provide an independent analysis from a consultant expert in TIF to justify to the satisfaction of the City and RDA the Developer’s qualification and need for TIF, both in terms of Qualified Expenditures and the amount of money to be paid to Developer.
- B. Nature of TIF Incentive. The TIF Incentive available to Developer under this Agreement is a pay-as-you-go (PayGo) obligation of the City, that is, Developer shall be responsible to incur and pay all of the upfront costs of the Project and, to the extent TID revenues are sufficient to the limits of the TID and this Agreement, Qualified Expenditures shall be reimbursed to Developer.
- C. Formula. TIF Increment will be calculated according to the assessed value multiplied by the mill rate, less payments of real estate taxes to the State of Wisconsin. TIF Incentive payments will be based on the difference between the assessed value of the Property in the year before commencement of the Project and the assessed value of the Property as of January 1 of each year, commencing the first year after the first occupancy permit for the Project has been issued, and will be payable to Developer in the year following the year of the determination, after Developer has provided proof to the City of the full payment of the real estate taxes, special assessments and special charges against the Real Estate for the previous year. For example, if the first occupancy permit is issued on September 1, 2017, the TIF Increment would be determined as of January 1, 2018 and is first payable in 2019. Assessed value shall be determined each tax year and shall be compared to the assessed value of the Property in the year construction of the First Phase begins.
- D. Limitations. The TIF Incentive available to Developer for the Project is limited as follows:
 - 1. Monetary Limitation. The TIF Incentive in any year shall not exceed fifty percent (50%) of the Available Tax Increment for the Property.
 - 2. Tax Incentive Cap. Irrespective of the total amount of Qualified Expenses incurred and paid by Developer, the City shall not be obligated to pay TIF Incentive in excess of \$120,000.00.

3. Tax Receipts Limitation. Only the Available Tax Increment actually received by the City, and no other property, revenue, or asset of the City, shall be used to pay such amounts.
 4. Temporal Limitation. Provided Developer qualifies for TIF Incentive and provides adequate proof to the City and RDA that Developer has incurred and paid Qualified Expenditures, TIF Incentive payments shall be made within thirty (30) days after Developer has paid the real estate taxes and any Special Assessments and Special Charges in full for the previous tax year, provided, however, in no event shall TIF Incentive payments continue after the earlier of termination date of the TID and the termination of this Agreement before the termination of the TID, because of an Event of Default by Developer. TIF payments shall only continue for a period of no longer than seven (7) years after the date of execution of this Agreement and therefore shall terminate at the end of tax year 2023.
- E. No General Obligation of City. The City's obligation to make TIF Incentive payments shall be a special and limited obligation of the City and shall not be a general obligation of the City, and neither the full faith and credit nor the taxing powers of the City are pledged to the payment of such amounts. Funds in the special fund of the District attributable to the Available Tax Increments shall not be used to pay any other project costs of the TID until the City has applied to the payment due hereunder of the TIF Incentive payment. The City shall take no action to dissolve the TID before payment of all TIF Incentive payments due to the Developer. In no circumstances shall amounts to be paid Developer hereunder be considered an indebtedness of the City, and the obligation of the City hereunder is limited to the Available Tax Increment appropriated and received by the City. Amounts due hereunder shall not count against the City's constitutional debt limitation, and no taxes will be levied for its payment or pledged to its payment other than from the Available Tax Increment.

II. OBLIGATIONS OF DEVELOPER

Prior to the execution of a Development Agreement, Developer shall demonstrate to the satisfaction of the City and RDA the following items within this section.

- A. Site Control. Developer shall submit proof of control over all real estate comprising the Property. Developer will have agreed with all holders of easements and any other rights that may be affected by the Project to the termination, modification or relocation of easements and such other rights to accommodate the Preliminary Concept Plan.
- B. Preliminary Concept Plan. Developer shall submit a concept plan showing proposed Project improvements. Developer shall grant to City such easements as are reasonably necessary for public improvements, infrastructure, ingress or egress, utilities, lighting or landscaping or any other access necessary. All site and building plans are subject to review and approval by the City for compliance with federal, state and municipal code requirements.

- C. Preliminary Construction Documents. Developer shall submit all construction contracts, architectural drawings and plans and specifications for the improvements to be made. All site and building plans are subject to review and approval by the City for compliance with federal, state and municipal code requirements.
- D. Preliminary Timeline. Developer shall submit a timeline that shall identify specific dates for the following Project milestones:
1. Property Acquisition. The date by which Developer will have acquired all real estate, rights-of way, and easements comprising the Property; after which Developer shall promptly cause a certified survey map to be prepared, approved by the City, RDA and any other party whose consent is required, and shall cause the certified survey map to be recorded with the Brown County Register of Deeds. Property and rights-of-way shall be owned in the name of the Developer.
 2. Construction. The date by which Developer shall have commenced construction of the Project after which the Project shall proceed expeditiously thereafter.
 3. Occupancy. The date by which Developer shall have completed major construction on the Property and all permits have been obtained to allow for normal occupancy.
- E. Preliminary Development Budget. Developer shall submit a budget that shall include not less than \$450,000 in "hard" construction costs and shall also include at least a ten percent (10%) cost overrun/change order line item. The Budget shall clearly identify qualified expenditures for which TIF assistance may be afforded Developer.
- F. Proof of Equity. Developer shall submit proof of equity in the form of the value of the Property, less any mortgages thereon, plus funds on hand and not less than twenty percent (20%) cash equity available for injection into the Project in an amount sufficient to cover all Project Costs, which shall not be provided to any third party sources. Any available Developer funds obtained from sources other than lenders or the City shall be expended on the Project before any lender or City funds are expended or any third party financing is used to pay Project costs.
- G. Proof of Financing. Developer shall submit proof of financing, which after injection of the Developer equity into the Project, will be sufficient in the determination of the City and RDA, to complete the Project according to the plans and specifications.
- H. Proof of Insurance. Developer shall submit proof that Developer has obtained and will maintain worker compensation insurance, comprehensive general liability insurance, comprehensive automobile liability and property damage, umbrella coverage and builder's risk insurance in amounts and written by companies acceptable to the City and RDA, which shall each name the City and RDA as additional insureds and shall not be canceled without at least thirty (30)-day notice to the RDA and City.

- I. Existence. Developer shall submit proof that Developer is a limited liability company organized and existing in good standing under the laws of the State of Wisconsin and has the power and all necessary licenses, permits and franchises to own its assets and properties and to carry on its business.
- J. No Litigation. Developer shall submit proof that there is no litigation or proceeding pending or threatened against or affecting Developer or the Property that would adversely affect the Project, Developer, or the ability of Developer to complete the Project.
- K. No Default. Developer shall submit proof that Developer is not in default (beyond any applicable period of grace) of any of its obligations under any other material agreement or instrument to which Developer is a party or an obligor.

III. MISCELLANEOUS TERMS

- A. Time. TIME IS OF THE ESSENCE with regard to all dates and time periods set forth herein.
- B. Documents. Developer shall submit all documents to the City or RDA via one electronic copy and three printed copies.
- C. Compliance with Laws and Codes. The Project, when completed, will conform and comply in all respects with all applicable laws, rules, regulations and ordinances, including without limitation, all building codes and ordinances of the City. Developer will comply with, and will cause the Project to be in compliance with all applicable federal, state, local and other laws, rules, regulations and ordinances, including without limitation, all environmental laws, rules, regulations and ordinances. Developer will obtain from the City and all other appropriate governmental bodies (and all other councils, boards, and parties having a right to control, permit, approve, or consent to the development and use of the Property) all approvals and consents necessary to develop and use the Property as set forth above.
- D. Maintenance and Repair. Developer shall at all times keep and maintain, or cause to be kept and maintained, the Property in good condition and repair, in a safe, clean, and attractive condition, and free of all trash, litter, refuse, and waste, subject to demolition and construction activities contemplated by this Agreement.
- E. Reports and Information. During the period before the commencement of construction, Developer shall from time to time provide to the RDA information having a bearing upon the Property, the Project, material developments in marketing, sale and leasing relating to the Project, and any other material matters pertaining to the interests of the City and the RDA in the Property or under this Agreement. Developer shall file with the RDA quarterly progress reports during the course of construction. Developer shall provide RDA with a copy of annual, audited financial statements for Developer through termination of this Agreement.
- F. Relationship of Parties. The City and the RDA are not partners or joint venturers with Developer in the Project or otherwise. Under no circumstances shall the City or RDA be

liable for any of the obligations of Developer under this Agreement or otherwise. There are no third party beneficiaries of this Agreement.

CAVEAT

This Term Sheet does not constitute an offer or a legally-binding obligation of any party hereto, or any other party in interest, nor does it constitute an offer of securities

[Signature pages follow]

IN WITNESS WHEREOF, the parties to this Agreement have caused this instrument to be signed by duly authorized representatives of Developer, City and RDA as of the day and year first written above.

THE CITY OF GREEN BAY

By: _____
James Schmitt, Mayor

By: _____
Kris Teske, Clerk

**REDEVELOPMENT AUTHORITY OF THE
CITY OF GREEN BAY**

By: _____
Harry Maier, Chair

Attest: _____
Kevin J. Vonck, Executive Director

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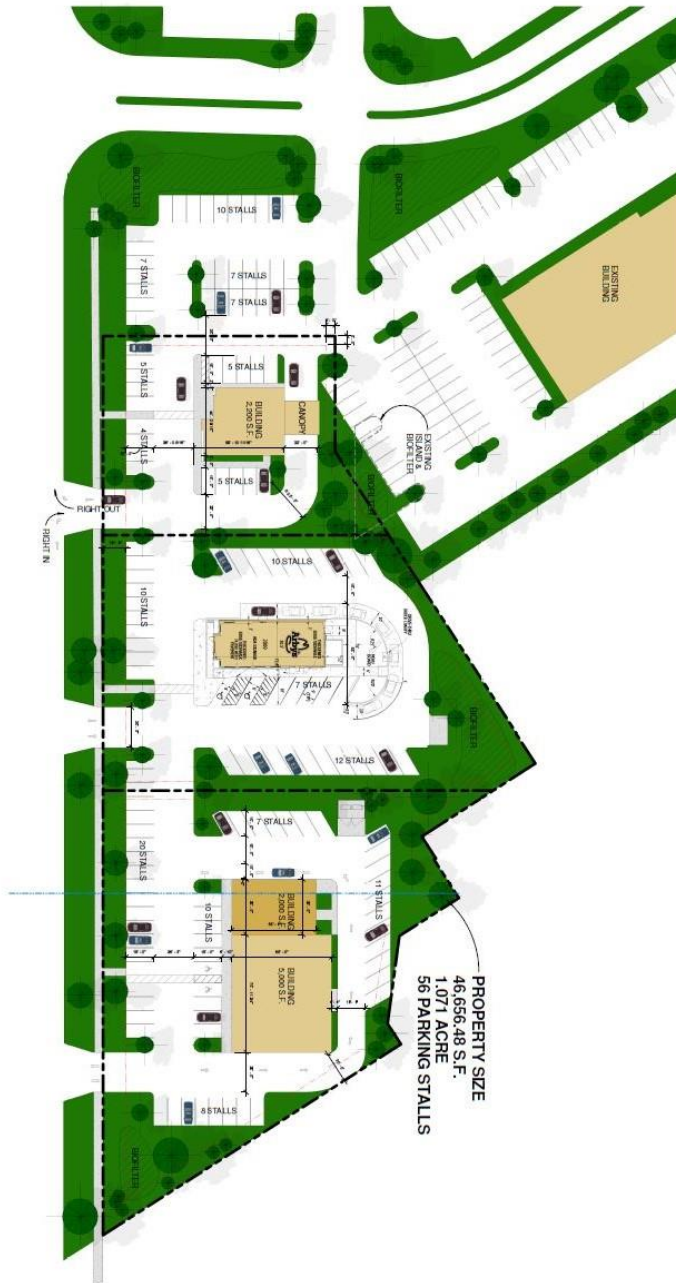
Notary Public, _____ County, Wisconsin

My Commission Expires

EXHIBIT A
Legal Description

LOT 1 OF 57 CSM 357 BNG PRT OF LOTS 7 & 8 OF ASTORS SUBD OF PC 3-7
ESFR & BNG PRT OF LOTS 43 & 44 OF FIRST ADDN TO ST BERNARD HEIGHTS

EXHIBIT B
Preliminary Concept Plan



CONCEPTUAL SITE PLAN

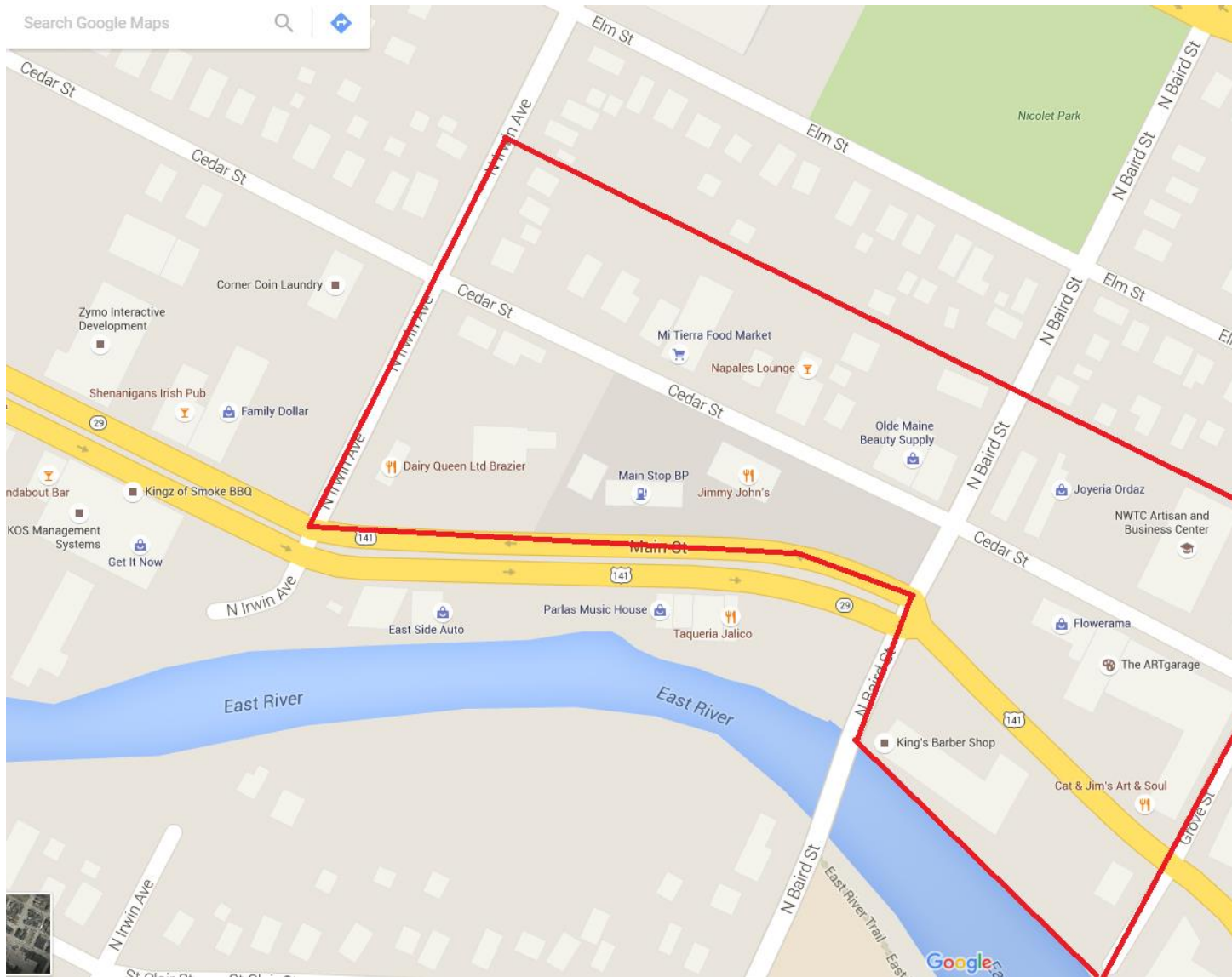


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PRELIMINARY - NOT FOR CONSTRUCTION

SHEET NUMBER C1.0	CONTENTS SITE PLAN COPYRIGHT NOTICE	REVISIONS DATE BY REVISIONS	DATE 6-12-2015 DRAWN BY I. WILSON	PROJECT NEW CONSTRUCTION EAST GREEN BAY DEVELOPMENT	GARRITT BADER GR REAL ESTATE INVESTMENTS	NOLAN CARTER ARCHITECTURAL DESIGN 1233 BARNARD STREET GREEN BAY, WI 920-606-0144
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Map of Cedar/Main Blight District



FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

Titletown Brewing Expansion-Larsen Green

This Agreement is made and entered into this _____ day of _____, 2016, by and between the **Redevelopment Authority of the City of Green Bay** (hereinafter “RDA”), the **City of Green Bay** (hereinafter “CITY”), and **DDL HOLDINGS, LLC**, a Wisconsin Limited Liability Company (hereinafter “DEVELOPER”). The RDA, CITY, and DEVELOPER may sometimes be referred to individually as “Party” and collectively “Parties.”

WHEREAS, DEVELOPER purchased property located between North Broadway and Donald Driver Way and between Dousman and Kellogg Streets consisting of six (6) buildings labeled A, B, C, D, E, and F (including all land and improvements, hereinafter defined as the “Project Site”); and **WHEREAS**, the Parties entered into a Development Agreement dated January 17, 2014, relating to the Project Site; and

WHEREAS, the Development Agreement provided for Tax Incremental Finance (“TIF”) assistance for buildings A, B and E of the Project Site; and

WHEREAS, subsequent to this Agreement, DEVELOPER requested additional TIF contribution to assist in completion of the Project at buildings C and D, which was approved by the Redevelopment Authority and Green Bay Common Council.

NOW THEREFORE based upon the covenants and considerations contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties mutually agree as follows:

1. Amendments. The Development Agreement is hereby amended as follows:

a. A new Section I.C. shall be inserted as follows:

C. PHASE III

i. DEVELOPER shall redevelop the entirety of buildings C and D for use as office space (45,061 sq. ft.) and retail space (15,060 sq. ft.). In addition to such development, DEVELOPER shall redevelop all corresponding infrastructure and parking space, as described in the Preliminary Concept Plan attached as Exhibit D and herein incorporated by reference.

ii. Total construction costs of Phase III shall be approximately Seven Million Dollars (\$7,000,000.00), with an estimated minimum assessed value of Four Million Dollars (\$4,000,000.00) upon issuance of a certificate of occupancy for Buildings C and D by January 1, 2017.

b. Section I.C through I.G. shall be relettered as I.D through I.H. respectively.

c. The first sentence of newly lettered I.F. shall be revised to state: By execution of this Agreement, the PARTIES hereto expressly approve the Preliminary Concept Plan attached as Exhibit B and Exhibit D.

d. A new Section III.C. shall be inserted as follows:

C. PHASE III

i. DEVELOPER shall provide RDA with evidence of a funding gap, a detailed list of sources and uses of funds, and project budget including expected cash flows, to demonstrate a need for TIF assistance. Should such a gap be verified, DEVELOPER shall receive pay-as-you-go annual TIF payment equal to 50% of the incremental taxes paid by DEVELOPER to the CITY for Phase III improvements only. Any pay-as-you-go TIF payment under this section shall continue until expiration of the TID, and shall commence on January 1 after issuance of a certificate of occupancy for Buildings C and D.

ii. DEVELOPER shall obtain a commitment of a total financing package covering the construction of Phase III of the Project and construction contract for the Project and provide proof satisfactory to the RDA. This total financing package and construction contract shall be presented to and approved by the RDA no later than ten (10) days after execution of this Agreement.

e. Section III.C through III.E. shall be relettered as III.D through III.F. respectively.

f. A new Section III.G. shall be inserted as follows: The Annual TIF Payment shall be paid to the DEVELOPER within 30 days following the RDA and CITY receiving proof from DEVELOPER that the annual real estate tax bill for the Property in the Project Site has been paid in full, provided however, that if a debt service balance exists for the Project Site, the Annual TIF Payment shall first be applied to the debt service balance with the remainder distributed to the DEVELOPER.

2. Remaining Terms and Conditions. The parties hereby acknowledge and agree that, as of the date hereof, the Development Agreement is in full force and effect, and that except as set forth herein, all remaining terms and conditions of the Agreement shall remain unchanged and the Agreements as amended by this First Amendment shall remain in full force and effect.

IN WITNESS WHEREOF, this First Amendment has been duly executed as set forth above.

DDL HOLDINGS, LLC DDL HOLDINGS, LLC

By: _____ By: _____

Paul B. Belschner, Managing Member Brent M. Weycker, Managing Member

REDEVELOPMENT AUTHORITY CITY OF GREEN BAY

By: _____ By: _____

Harry Maier, Chairman James Schmitt, Mayor

By: _____ By: _____

P. Robert Strong, Executive Secretary Kris Teske, Clerk

BUILDING “C”

BUILDING “D”

EXHIBIT D

Preliminary Concept Plan

EXHIBIT D (continued)

Preliminary Concept Plan

DEVELOPMENT AGREEMENT
Titletown Brewing Expansion-Larsen Green

THIS AGREEMENT (hereinafter called the "Agreement") made as of the 17th day of January, 2014, by and between the **REDEVELOPMENT AUTHORITY OF THE CITY OF GREEN BAY** (hereinafter called the "RDA"), the **CITY OF GREEN BAY** (hereinafter called the "CITY"), and **DDL HOLDINGS, LLC**, a Wisconsin Limited Liability Corporation (hereinafter called the "DEVELOPER") (DEVELOPER is owned by Titletown Brewing Co., LLC ("TITLETOWN") and Titletown Brewing District Investors, LLC ("TBDI"), collectively referred to as "MEMBERS OF DEVELOPER"). The RDA, CITY, and DEVELOPER may collectively be referred to as the "PARTIES."

WITNESSETH:

WHEREAS, On Broadway, Inc. (hereinafter "OBI") owns property legally described on the attached Exhibit A hereto (tax parcels 5-1740, 5-1751, 5-1752, 5-1753, 5-1754, 5-1755, 5-1758 and 5-584-2) located between North Broadway and Donald Driver Way and between Dousman and Kellogg Streets consisting of six (6) buildings labeled A, B, C, D, E, and F (including all land and improvements, hereinafter defined as the "Project Site"), and

WHEREAS, DEVELOPER desires to purchase the Project Site and expand its existing brewery and business operations in downtown Green Bay by constructing a mixed use complex consisting of parking, commercial, retail, office and residential space, and

WHEREAS, the development of the Project Site shall consist of two phases of development discussed further herein (Phase I and Phase 2, hereinafter defined as the "Project"), and

WHEREAS, DEVELOPER has requested and will receive Tax Incremental Finance assistance from the CITY to allow for the Project to occur.

NOW, THEREFORE, in consideration of the promises and obligations herein set forth, it is mutually agreed between the PARTIES as follows:

I. PROPOSED PROJECT SCOPE AND DEVELOPER OBLIGATIONS. DEVELOPER proposes to construct on the Project Site a mixed use complex consisting of parking, commercial, retail, office and residential space. The Project shall be completed in two (2) phases.

A. PHASE I

- i. DEVELOPER shall redevelop portions of buildings A, B, and E for use by Titletown Brewing Co., LLC, as a brewing and bottling/canning facility (17,900 sq. ft.), product storage in basement (12,750 sq. ft.), tap room (3,074 sq. ft.), third floor unfinished office space (12,750 sq. ft.), and an interior hallway area, which shall be known as Phase I. In addition to such development, DEVELOPER shall redevelop all corresponding infrastructure and parking space, as described in the Preliminary Concept Plan attached as Exhibit B and herein incorporated by reference.
- ii. Total construction costs of Phase I shall be approximately \$5.5 million with an estimated minimum assessed value of \$3,492,000 upon

Moved by Ald. Scannell, seconded by Ald. Moore to adopt the report with the exception of Items #2, #3 and #4. Motion carried.

Moved by Ald. Scannell, seconded by Ald. Moore to adopt Item #2.

Roll call: Ayes: Dorff, DeWane, Galvin, Nennig, Moore, Scannell, Steuer, Vander Leest, Sladek. Noes: Nicholson, Wery, Zima. Motion carried.

Moved by Ald. Nennig, seconded by Ald. Moore to adopt Item #3. Motion carried.

Moved by Ald. Scannell, seconded by Ald. Galvin to adopt Item #4. Motion carried.

REPORT OF THE TRAFFIC COMMISSION July 19, 2016

The Traffic Commission having met Monday, June 20, 2016 considered all matters on its agenda and wishes to report and recommends the following:

1. To refer to staff to study the need and costs of replacing pavement markings at the intersection of Dousman Street and Fisk Street.
2. To receive and place on file the request for a crossing guard study at the intersection of Radinz Road and Aphrodite Road.
3. To approve and adopt by ordinance the request to establish a 4-WAY STOP condition at the intersection of Spence Street and Thorndale Street.
4. To rescind and adopt by ordinance the request to remove the 2-HOUR 7 AM TO 4 PM SCHOOL DAYS zone on the north side of Camm Place.
5. To rescind and adopt by ordinance the request to establish a NO PARKING 7 AM TO 4 PM SCHOOL DAYS zone on the north side of Camm Place.

Moved by Ald. Scannell, seconded by Ald. Nennig to adopt the report. Motion carried.

REPORT OF THE FINANCE COMMITTEE JULY 19, 2016

The Finance Committee having met on Tuesday, July 12, 2016, considered all matters on its agenda and wishes to report and recommend the following:

1. To approve the request of the City Assessor to cancel certain personal property taxes.
2. To receive and place on file the request of the Finance Director the review and

discussion on the 2015 year-end financial results and management letter for the City.

3. To approve purchase of two Motorola APX 7500 Consolettes and Digital Desk Sets from Motorola Solutions for \$20,495.
4. To approve purchase of two Motorola APX 7500 Mobile Radios from Motorola Solutions for \$10,415.
5. To approve the report of the Purchasing Manager of 2016 purchases for 11 vehicles off the State of Wisconsin Vendornet contract, totaling \$283,741.
6. To approve the request of the Purchasing Manager to purchase 2017 budgeted cars and light trucks through the State of Wisconsin Vendornet contract.
7. To approve a 3 year contract to purchase approximately 40 sets per year of Firemen's Turnout Gear from Paul Conway Shields through the V.A.L.U.E. cooperative purchasing consortium. Projected annual cost is \$76,000 (\$228,000 for 3 years). This contract has three 1-year renewal options by mutual agreement.
8. To approve the award of contract for a Spatial Needs Assessment for a Public Safety Building to Bray Architects for \$18,000.
9. To approve the award of the contract to Martin Security for \$25,735 to furnish and install a secure door access control system at City Hall and the Police Department.
10. To approve emergency funding for 12 used vehicles for School Resource Officers vehicles that failed inspection and taken out of service. Projected cost for those vehicles is \$144,000. Funding sources would be \$52,000 from the contingency fund, \$72,000 from police operating budget and \$20,000 from the State Asset Forfeiture Account.
11.
 - a. To approve the request by the Police Chief to purchase a used Police Command Center vehicle subject to thorough inspection and acceptance by City mechanical, technical, and SWAT personnel, market research on comparable values on similar new and used vehicles and final negotiations by the Purchasing Manager.
 - b. To approve the request for out of state travel for up to 3 police personnel to inspect the used police command vehicle noted above prior to purchase (Head Mechanic, Technician, SWAT) of the unit.

12. To approve the request by Ald. Galvin and Moore to establish an application process and deadlines to apply for and distribute excess stadium tax funds as follows:
 - August 9, 2016 – determine distribution percent / dollars by the three classifications: debt reductions, economic development and tax relief
 - August 9, 2016 – create an application for approval by the Finance Committee
 - September 30, 2016 - deadline to submit applications to be reviewed by a TBD sub-committee.
 - October 25, 2016 - presentation of recommendations to the Finance committee
 - November 15, 2016 - final recommendations presented and distribution thereafter.
13. To receive and place on file the request by Ald. Nicholson to review all Development Agreements that the City has entered into in the last 10 years.
14. To receive and place on file the request by Ald. Nicholson to review all finances / audits for each TIF for the last ten years.
15. To receive and place on file the review of the City's process of moving to a paperless environment with payroll and accounts payable.
16. To hold until the next Finance Committee meeting the request by Ald. Moore to review and approve a resolution in opposition to the Oneida Nation Indian Tribe implementing an additional sales tax for retailers located on tribal land.
17. To receive and place on file the report by Finance Director.

2016 Contingency Fund
\$110,000

Moved by Ald. DeWane, seconded by Ald. Scannell to adopt the report with the exception of Item #12. Motion carried with Ald. Nicholson abstaining on the entire report.

Moved by Ald. Sladek, seconded by Ald. DeWane to adopt Item #12.

Moved by Ald. Moore, seconded by Ald. DeWane to amend the item by adding “/infrastructure needs” after “tax relief”. Motion carried.

Moved by Ald. Scannell, seconded by Ald. Steuer to change November 15 to November 1. Motion carried.

Moved by Ald. Zima, seconded by Ald. Moore to change October 25 to October 11. Motion carried.

Moved by Ald. Scannell, seconded by Ald. Nennig to adopt Item #12 as amended. Motion carried.

**REPORT OF THE
IMPROVEMENT AND SERVICE COMMITTEE
July 19, 2016**

The Improvement and Service Committee, having met on July 13, 2016 considered all matters on its agenda and wishes to report and recommend the following:

1. To approve the request by Thomas R. Peterson to extend special assessments from 5 years to 10 years for the property at 3325 Humboldt Road.
2. To take no action regarding the request by Bi Zhen Wu to rescind the special collection charge of \$70.00 at 1746-1748 Wedgewood Drive (2-2 tie vote).
3. To approve the request by Peter Stillmank to place objects in the right-of-way in front of 215 N. Henry Street contingent upon executing a Hold Harmless Agreement, placing on file with the City applicable insurance, obtain all necessary City approvals, and authorize the Mayor and City Clerk to execute the agreement.
4. To refer to staff the request by Ald. Nicholson to review, with possible action, the policy on fees for mini-sewer connection.
5. To hold for the next regularly scheduled Improvement & Service Committee meeting the request by Ald. Nicholson to review, with possible action, the current policy regarding parking of vehicles on vehicle aprons.
6. To refer to staff for further study the request by Ald. Wery to examine changing the method of approving and paying for all street improvements.
7. To hold the request by Ald. Zima, on behalf of all people who cross the Walnut Street Bridge, that the Department of Public Works provide emergency repairs to the railroad crossing at about 100 West Walnut Street (held over from June 8, 2016 Improvement & Service Committee meeting) and to:
 - A. Take an inventory of all of the railroad crossings in the City of Green Bay that are in serious disrepair.
 - B. Legal staff look into the State law and make some suggestions of some resolutions we could send to State Legislatures to try to correct whatever those problems might be so we can try to resolve this in the long term.
 - C. Have the Mayor contact the League of Cities to try to find some resolution to this big log jam that we are all suffering under.
8. To approve the Bay-Lake Regional Planning Commission phragmites removal plan and authorizing Bay-Lake Regional Planning Commission to work in the

public right-of-way in the eradication zone subject to Department of Public Works staff approving work on individual parcels.

9. To approve the request by Department of Public Works to approve the proposed cross-section for North Webster Avenue and to authorize the consultant to complete the design work including the project plans, specifications, estimate and all required Wisconsin Department of Transportation reports and to make a recommendation to the City Council.
10. To receive and place on file the bid results of the following contracts:
 - A. To receive and place on file the bid result for contract PARKING RAMP REPAIRS – 2016 to the low, responsive bidder, Central Restoration LLC, in the amount of \$534,750.00
 - B. To receive and place on file the bid result for contract SEWERS 3-16, PART A, to the low responsive bidder, Peters Concrete Co., in the amount of \$117,552.00 and SEWERS 3-16, PART B, to the low responsive bidder, Terra Engineering & Construction Corp., in the amount of \$300,117.00.
 - C. To receive and place on file the bid result for contract TRAFFIC SIGNAL REPAIR – 2016 to the low, responsive bidder, Bodart Electric Service, in the amount of \$232,636.40.
 - D. To receive and place on file the bid result for contract WATER MAIN EXTENSION 2016 to the low, responsive bidder, Vinton Construction Company, in the amount of \$156,713.50
11. To approve and award contract SEWERS 4-16 to Dorner, Inc., in the amount of \$256,586.00.
12. To approve the request by MEADE to enter into an annual Hold Harmless Agreement for access to the City of Green Bay sewer system to conduct inspection of the sewer mains and laterals contingent upon executing a Hold Harmless Agreement, placing on file with the City applicable insurance, obtain all necessary City approvals, and authorize the Mayor and City Clerk to execute the agreement.
13. To approve the request by Bay Architects, LLC on behalf of Just Down From The Stadium, LLC., to allow a new building access ramp, and to allow the existing building access ramps, exhaust fans and compressor and enclosure within the Brett Favre Pass right-of-way contingent upon executing a Hold Harmless Agreement, placing on file with the City applicable insurance, obtain all necessary City approvals, and authorize the Mayor and City Clerk to execute the agreement upon Village of Ashwaubenon Inspection Department approval.

14. To approve the request by BC Real Estate Investments, LLC for a Driveway Easement allowing the existing driveway adjacent to 604-606 S Maple to remain within the surplus West Mason Street right-of-way.
15. To approve the application for a Concrete Sidewalk Builder's License by Precision Flatwork.
16. To approve the application for an Underground Sprinkler System License by the following:
 - A. Lizer of Wisconsin, Inc.
 - B. Rain Master Irrigation, Inc.
17. To not levy special assessments and to direct staff to consult with Law Department to determine steps needed to not install sidewalks along Taylor Street from Dousman Street to 730' S/O Bond Street.

Moved by Ald. Nicholson, seconded by Ald. Galvin to adopt the report with the exception of Items #2, #9 and #17. Motion carried.

Moved by Ald. Scannell, seconded by Ald. DeWane to adopt Item #2.

Moved by Ald. Vander Leest, seconded by Ald. Steuer to suspend the rules to allow interested parties to speak. Motion carried.

Moved by Ald. DeWane, seconded by Ald. Steuer to return to the regular order of business. Motion carried.

A vote was then taken on the motion to adopt Item #2. Motion carried.

Moved by Ald. DeWane, seconded by Ald. Scannell to adopt Item #9.

Moved by Ald. Dorff, seconded by Ald. Nicholson to suspend the rules to allow interested parties to speak. Motion carried.

Heather Gentry, 249 Kenny Street, President of Green Bay Bicycle Collective, noted that there were a number of bike advocates in the audience, each representing their own group. They are concerned about the outside lanes. They realize there are cost and safety issues, but favor the 5-foot striped bike lane. She answered questions from the alderpersons.

Jen VanDenElzen, 3321 Cottage Hill Drive, Director of Live54218, also favored the 5-foot lane and requested that this be referred back to staff.

Joshua Schwalbe, 1216 Cherry Street, felt this was a special project. For comfort and safety, bicyclists should have their own lane.

Moved by Ald. Nicholson, seconded by Ald. Galvin to return to the regular order of business. Motion carried.

Moved by Ald. Dorff, seconded by Ald. Galvin to refer Item #9 back to study 5-foot lanes and the costs.

Moved by Ald. Dorff, seconded by Ald. Zima to install 5-foot bike lanes and that the extra costs be taken from the excess Packer tax. Ald. Dorff wished to withdraw her motion.

Moved by Ald. Nicholson, seconded by Ald. Moore to adopt Item #9.

Roll call: Ayes: Nicholson, Moore, Wery. Noes: Dorff, DeWane, Galvin, Nennig, Scannell, Zima, Steuer, Vander Leest, Sladek. Motion lost.

Moved by Ald. Zima, seconded by Ald. Vander Leest to install 5-foot bike lanes with the extra cost up to \$200,000 be taken from the excess Packer tax.

Roll call: Ayes: Zima, Vander Leest. Noes: Dorff, DeWane, Nicholson, Galvin, Nennig, Moore, Scannell, Wery, Steuer, Sladek. Motion lost.

Moved by Ald. Dorff, seconded by Ald. DeWane to install 5-foot bike lanes with the increase being funded with grants or other means necessary.

Roll call: Ayes: Dorff, DeWane, Galvin, Nennig, Moore, Scannell, Wery, Zima, Steuer, Vander Leest, Sladek. Noes: Nicholson. Motion carried.

Moved by Ald. DeWane, seconded by Ald. Scannell to adopt Item #17.

Moved by Ald. Nicholson, seconded by Ald. Moore to refer Item #17 back to the Improvement & Service Committee. Motion carried.

REPORT OF THE PERSONNEL COMMITTEE

July 19, 2016

The Personnel Committee, having met on Tuesday, July 12, 2016 considered all matters on its agenda and reports and recommends the following:

1. To approve the request to reclassify the vacant Photo ID Technician position (\$18.40-\$20.44/hour) to a Criminalistic Specialist position in accordance with Bay Area Administrative Salary Schedule (\$23.99-\$28.22/hour).
2. To approve the requests to fill the following replacement positions and all subsequent vacancies resulting from internal transfers.
 - a. Truck Driver – Public Works
 - b. Bridgetender – Public Works
 - c. Senior Landscape Architect – Parks, Recreation & Forestry
 - d. Benefits Specialist – Human Resources
 - e. Criminalistic Specialist – Police
3. To approve out of state travel for Brian Pelot, Asst. City Forester to train on Emerald Ash Borer (EAB) treatment and research at BioForest Technologies in Sault Ste. Marie, Ontario, August 29-31, 2016 at no cost to the City for transportation or room or board.
4. To provide an additional update on the Health 1265 program at the next Personnel Committee meeting.
5. To receive and place on file the Report of Routine Personnel Actions for regular employees.
6. To proceed as discussed in closed session with Police Supervisory labor negotiations.

Moved by Ald. Scannell, seconded by Ald. Nicholson to adopt the report. Motion carried.

PROTECTION & WELFARE COMMITTEE REPORT

July 19, 2016

The Protection & Welfare Committee, having met on Monday, July 11, 2016, considered all matters on the agenda and wishes to report and recommend the following:

1. To approve the request by the owners of the Loading Dock, 1405 N. Webster, to hold an outdoor event on July 16, 2016 with the caveat that alcohol can be taken outside as long as temporary fencing is provided. The approval of the request is subject to complaint.
2. To approve the request by Saz's Hospitality Group to hold an outdoor event at Lambeau Field on September 3, 2016. The approval of the request is subject to complaint.
3. To hold approval of the request by the owners of Hyatt Hotel, 333 Main Street, to include an outdoor space as part of their licensed premises until August 4, 2016 pending a plan and approval by the RDA.
4. To approve the request by Ald. Scannell, on behalf of Downtown Green Bay, Inc. to allow more than two food trucks (maximum of 5) for Thursday Lunch with Morty the Moose on Main Street during the months of August and September.
5. To approve the Renewal Application for a "Class B" Combination License by Kathleen Broder at 1332 S. Broadway with the approval of the proper authorities.
6. To approve the Application for a "Class B" Combination License by McNeils GB, LLC at 708 Bodart with the approval of the proper authorities. (Currently Bullseye Pizza Pub).
7. To approve the Application for a "Class A" Liquor and a Class "A" Beverage License by Krist Oil Co. at 1180 E. Mason Street with the approval of the proper authorities. (Currently Astor Park Mini Mart).
8. To approve the Application for an available "Class B" Combination License by Board and Brush Creative Studio-Green Bay, LLC at 235 N. Broadway with the condition that the license be returned to the City unless sold to same kind of business. It also requires the approval from the proper authorities.
9. To approve the Application for an available "Class B" Combination License by Gather on Broadway at 139 N. Broadway, subject to them giving their license

back to the City unless sold to the same type of business. It also requires the approval from the proper authorities.

10. To hold the Application for an available "Class B" Combination License by Sepia Wedding Chapel, LLC at 3562 Finger Road until the first P&W meeting after Section 33.08 of the Ordinance is amended.
11. To approve the request by Ald. Scannell to amend Section 33.08(2) RESTRICTIONS ON LOCATION. (Amd. GO 11-00) (Amd. GO 25-10).
12. To approve the Appeal by Leslie Newton to the denial of her Operator License application.
13. To approve an Ordinance relating to the Green Bay Public Arts Commission with amendment to Section (h).
14. To approve an Ordinance relating to the Replacement of Lead Water Service Lines pending financing being available.
15. To refer to staff to develop an ordinance related to the request that the City Council consider Pedal Pubs in Green Bay.

Moved by Ald. Scannell, seconded by Ald. Moore to adopt the report. Motion carried.

**REPORT OF THE PROTECTION AND WELFARE COMMITTEE
GRANTING OPERATOR LICENSES
July 19, 2016**

The Protection and Welfare Committee wishes to request that the following applications for Operator Licenses be granted.

Stipulations placed on licenses shall continue to be in effect.

OPERATOR LICENSES

Alvet, Yvonne M	DeLair, Tara E	Jensen, Michael A
Amschler, Andrea	Deviley, Kim A	Johnson, Rita M
Anderson, Susan A	Diges, Cheryl Y	Johnston, Pamela R
Arbeiter, Kathleen M	Dittmar, Felicia L	Jordan, Yadakna O
Arcand, Ben D	Dix, Gina M	Just, Kirsten M
Austin, Rebecca L	Dugre, Jeffrey J	Kahl, Allan A
Baker, Mikenna S	Duquaine, Abby R	Kanugh, Leon G
Bartels, Brianne L	Edlbeck, Michael G	Karr, Allen E
Battle, Geneva D	Edwards, Amber N	Katers, Mary E
Berglund, Jodi C	Estevez, Lazaro	Keomanyvong, Kham
Berkovitz, Holly A	Fischer, Lori A	King, Chase M

Beyreis, Robert G
Blozinski, Carol J
Boeke, Bradley A
Boots, Kelly L
Boucher, Donald J
Butler, Reanna M
Carlson, Olivia J
Charnetski, Terry E
Clement, Elliot T
Cochran, Marcus J
Coe, Stephen D
Coel, Michelle A
Colburn, Tamara L
Colwell, Jessica L
Cruz, Marlene L
Dalebroux, Debra K
Dalton, Alexander J
Daun, Eric J
De Lano, M. Robert
DeGroot, Greg J

Malcheski, Mary E
Massie, Connor W
McDonald, Lisa M
Melgar, Sheri L
Mellenberger, Walter J
Meunier, Carissa E
Meyer, Jeannine T
Mielke, Nathan J
Montano, Ruth A
Morales, Evelyn Y
Moravec, Jonathan M
Mortson, Darlene M
Mueller, Erin M
Murphy, Heidi J
Norton, Taelor M
Nowell, Stacy L
Orosco, Lavina J
Pankratz, Kylene H
Passamoni, Zachary M
Paul, Baptiste
Payne, Dennis J

Franch, Alessandra S
Fuller, Andrea M
Furlong, Darcy E
Gee, Lisa A
Geriba, Christie L
Gonzales, Ricky S
Grams, Erin M
Gray, Lai Etta A
Griesbach, Jeffrey J
Grullon, Sarah Jo L
Hadley, Crystal L
Helgesen, Eric J
Herdina, Daniel L
Hesprich, Sue M
Hofacker, Earl P
Holl, Timothy C
Jach, Eric M
Jadin, Kris G
Jansen, Andrea B
Janssen, Jesse J

Smidt, Robert M
Smith, Bette J
Smits, Stacy A
Starr, Cheyenne R
Sterckx, Jason L
Swille, Jesse F
Temple, Betty J
Thao, Doua
Thomas, Holly L
Thor, Mary M
Thorsen, Ricky R
Trudell, Angela M
Vander Perren, Broderik A
VanderKinter, Paula M
VanGruensven, Nicholas M
Walasek, Jantaratn
Walden, Tammy L
Walsh, Brandon J
Warner, Theresa A
Waukau, Rochelle J
Webster, Kathleen M

Kleikamp, Alexa L
Knoblock, Derek J
Koepke, Gertrudes C
Konop, Morgan M
Koronkiewicz, Matthew
Kriescher, Linda L
LaCount, Catherine A
LaJeunesse, Kari L
Laubenstein, Denise L.
Lawler, Mary B
Layden, Matthew J
Leder, Paul M
Lee, Marissa K
Leneau, Steven D
Lindblom, Jeffrey D
Lisi Gage, Matthew M
Little, Robert D
Loberger, Nancy J
Madsen, Gregory J
Maertz, Lacy J

Paynter, Brittany K
Peerenboom, Gidget M
Peters, Amy M
Peters, Patricia L
Preston, Kathleen L
Remington, Austin A
Rentmeester, Jason R
Rieck, Debra A
Rieck, Scott A
Roberts, Daniel R
Rowell, Jennifer J
Ruby, Marianne L
Schmechel, Paula M
Schoenhofen, Jamie R
Seeger, Elizabeth M
Sharkey, Hana E
Siebers, Susan
Singh, Sandeep

Weso, Monroe T
Wesoloski, Teresa L
Wieser, Jonathon L
Willert, Tracy L
Witt, Thomas P
Wolff, Rachel A
Wulk, Kelly S
Zasada, Leonard M

Moved by Ald. Scannell, seconded by Ald. Moore to adopt the report. Motion carried.

REPORT OF THE ETHICS BOARD July 19, 2016

The members of the Ethics Board, having met on Tuesday, July 5, 2016, considered all matters on its agenda and wish to report and recommend the following:

1. To adopt the finding of facts and conclusions of law in the matter of the Ethics Complaint against Chris Wery filed by Debbie Jacques under the City of Green Bay Code of Ethics Section 1.90, Sec., (1), (2), and (3).
2. To refer the find of facts and conclusions of law from the Complaint against Chris Wery filed by Debbie Jacques under the City of Green Bay Code of Ethics Section 1.90, Sec (1), (2), and (3) to the Common Council for appropriate action.
3. Refer to Law Department the consideration and possible action on request for confidential advisory opinion from employee pursuant to Wis. Stat. § 19.59 (5) and Green Bay Municipal Code § 1.90 (9).

City of Green Bay
Ethics Board
Ethics Complaint against Alderperson Chris Wery

Staff Proposed Findings of Fact and Conclusions of Law

This matter came before the Ethics Board for a public hearing on June 13, 2016. The purpose of the hearing was to determine whether there was probable cause that Alderperson Chris Wery violated Green Bay Municipal Code § 1.90.

Findings of Fact

1. Complainant is Ms. Deb Jacques.
2. Ms. Jacques was a political opponent of Alderperson Chris Wery during the 2016 Aldermanic election.
3. Ms. Jacques is an accountholder at Associated Bank, as is her daughter, who is not a complainant in this matter.
4. During March 2016, Ald. Wery was employed at Associated Bank.
5. As an employee of Associated Bank, Ald. Wery had access to accountholder bank records.
6. As an employee of Associated Bank, Ald. Wery was not authorized to access accountholder bank records without cause.
7. During March 2016, Alderperson Wery accessed the bank records of Ms. Jacques and Ms. Jacques' daughter.
8. Ald. Wery had not been asked to access Ms. Jacques or her daughter's records by either the accountholder or his employer at the time they were accessed.
9. Ms. Jacques filed an ethics complaint alleging Ald. Wery's actions in accessing these bank records violated sections 1.90(1), (2), and (3) of the Green Bay Municipal Code.
10. The stated purpose of the Code of Ethics under GBMC § 1.90(1) is to establish guidelines for the standards of conduct for all officials and employees by setting forth those acts or actions that are incompatible with the best interests of the city.
11. GBMC § 1.90(2) provides that the public interest must be a primary concern of an elected official.
12. GBMC § 1.90(3) provides that all officials and employees shall not exceed their authority.

Moved by Ald. Scannell, seconded by Ald. Dorff to adopt the report with the exception of Items #1 & #2. Motion carried.

Moved by Ald. Moore, seconded by Ald. Nennig to obtain written arguments, rather than oral, and to hold until the August 16 meeting and to change the briefing dates as follows:

Brief due: July 28

Response due: August 5

Reply due: August 11

Motion carried.

RECEIVE & PLACE ON FILE

Building Permit Report for June, 2016.

Account Summary Trial Balance for May, 2016.

Moved by Ald. DeWane, seconded by Ald. Steuer to receive the matters and place them on file. Motion carried.

RESOLUTIONS

Moved by Ald. Scannell, seconded by Ald. Wery to suspend the rules for the purpose of adopting the resolutions, with the exception of #18. Motion carried.

RESOLUTION AUTHORIZING TRANSFER OF FUNDS

July 19, 2016

BY THE COMMON COUNCIL OF THE CITY OF GREEN BAY, RESOLVED:

Pursuant to the recommendation of the Finance Committee at its meeting of July 12, 2016, the following transfer of funds is hereby authorized:

	<u>ACCOUNT</u>	<u>AMOUNT</u>
From:	101099-59001 Contingency	\$ 52,000
	101300-50001 Police Salaries	<u>72,000</u>
	Total:	<u><u>\$124,000</u></u>
To:	423300-49210 Police Equipment Replacement	\$124,000

Adopted July 19, 2016

Approved July 20, 2016

James J. Schmitt
Mayor

Kris A. Teske
Clerk

Moved by Ald. Scannell, seconded by Ald. Dorff to adopt the resolution.
Roll call: Ayes: Dorff, DeWane, Nicholson, Galvin, Nennig, Moore, Scannell, Wery, Zima, Steuer, Vander Leest, Sladek. Noes: None. Motion carried.

**RESOLUTION AUTHORIZING REFUND
OF PERSONAL PROPERTY TAXES**

July 19, 2016

BY THE COMMON COUNCIL OF THE CITY OF GREEN BAY, RESOLVED:

That, pursuant to the recommendation of the Finance Committee at its meeting of July 12, 2016, the following personal property taxes shall be refunded:

<u>Account Number</u>	<u>Amount</u>
21691	\$1,865.38

Adopted July 19, 2016

Approved July 20, 2016

James J. Schmitt
Mayor

Kris A. Teske
Clerk

Moved by Ald. Scannell, seconded by Ald. Dorff to adopt the resolution.

Roll call: Ayes: Dorff, DeWane, Nicholson, Galvin, Nennig, Moore, Scannell, Wery, Zima, Steuer, Vander Leest, Sladek. Noes: None. Motion carried.

**RESOLUTION APPROVING
A DRIVEWAY EASEMENT TO REMAIN WITHIN THE
SURPLUS WEST MASON STREET RIGHT-OF-WAY
July 19, 2016**

BY THE COMMON COUNCIL OF THE CITY OF GREEN BAY, RESOLVED:

To approve the request by BC Real Estate Investments, LLC for a Driveway Easement allowing the existing driveway adjacent to 604-606 S Maple to remain within the surplus West Mason Street right-of-way.

Adopted July 19, 2016

Approved July 20, 2016

James J. Schmitt
Mayor

ATTEST:

Kris A. Teske
City Clerk

Moved by Ald. Scannell, seconded by Ald. Dorff to adopt the resolution.

Roll call: Ayes: Dorff, DeWane, Nicholson, Galvin, Nennig, Moore, Scannell, Wery, Zima, Steuer, Vander Leest, Sladek. Noes: None. Motion carried.

**RESOLUTION APPROVING
HOLD HARMLESS AGREEMENT
215 N. HENRY STREET
TO PLACE OBJECTS IN THE CITY'S RIGHT-OF-WAY
July 19, 2016**

BY THE COMMON COUNCIL OF THE CITY OF GREEN BAY, RESOLVED:

To approve the request by Peter Stillmark to place objects in the right-of-way in front of 215 N. Henry Street contingent upon executing a Hold Harmless Agreement, placing on file with the City applicable insurance, obtain all necessary City approvals, and authorize the Mayor and City Clerk to execute the agreement.

Adopted July 19, 2016

Approved July 20, 2016

James J. Schmitt
Mayor

ATTEST:

Kris A. Teske
City Clerk

Moved by Ald. Scannell, seconded by Ald. Dorff to adopt the resolution.

Roll call: Ayes: Dorff, DeWane, Nicholson, Galvin, Nennig, Moore, Scannell, Wery, Zima, Steuer, Vander Leest, Sladek. Noes: None. Motion carried.

**RESOLUTION APPROVING
HOLD HARMLESS AGREEMENT
MEADE
CITY OF GREEN BAY SEWER SYSTEM ACCESS
July 19, 2016**

BY THE COMMON COUNCIL OF THE CITY OF GREEN BAY, RESOLVED:

To approve the request by MEADE to enter into an annual Hold Harmless Agreement for access to the City of Green Bay sewer system to conduct inspection of the sewer mains and laterals contingent upon executing a Hold Harmless Agreement, placing on file with the City applicable insurance, obtain all necessary City approvals, and authorize the Mayor and City Clerk to execute the agreement.

Adopted July 19, 2016

Approved July 20, 2016

James J. Schmitt
Mayor

ATTEST:

Kris A. Teske
City Clerk

Moved by Ald. Scannell, seconded by Ald. Dorff to adopt the resolution.
Roll call: Ayes: Dorff, DeWane, Nicholson, Galvin, Nennig, Moore, Scannell, Wery, Zima, Steuer, Vander Leest, Sladek. Noes: None. Motion carried.

**RESOLUTION APPROVING
HOLD HARMLESS AGREEMENT
JUST DOWN FROM THE STADIUM, LLC.
ITEMS WITHIN THE BRETT FAVRE PASS RIGHT-OF-WAY
July 19, 2016**

BY THE COMMON COUNCIL OF THE CITY OF GREEN BAY, RESOLVED:

To approve the request by Bay Architects, LLC on behalf of Just Down From The Stadium, LLC., to allow a new building access ramp, and to allow the existing building access ramps, exhaust fans and compressor and enclosure within the Brett Favre Pass right-of-way contingent upon executing a Hold Harmless Agreement, placing on file with the City applicable insurance, obtain all necessary City approvals, and authorize the Mayor and City Clerk to execute the agreement upon Village of Ashwaubenon Inspection Department approval.

Adopted July 19, 2016

Approved July 20, 2016

James J. Schmitt
Mayor

ATTEST:

Kris A. Teske
City Clerk

Moved by Ald. Scannell, seconded by Ald. Dorff to adopt the resolution.
Roll call: Ayes: Dorff, DeWane, Nicholson, Galvin, Nennig, Moore, Scannell, Wery, Zima, Steuer, Vander Leest, Sladek. Noes: None. Motion carried.

**RESOLUTION AUTHORIZING CONDITIONAL-USE
APPROVAL AT 1059 SHADOW LANE
(ZP 16-27)**

July 19, 2016

BY THE COMMON COUNCIL OF THE CITY OF GREEN BAY, RESOLVED:

That, pursuant to Zoning Petition 16-27 and the recommendation of the Plan Commission on July 11, 2016, the City of Green Bay does authorize a conditional-use permit for a Transient Residential use located on the following described property at 1059 Shadow Lane:

Lot 8, Block 12, Southgate Subdivision No. 6
(Tax Parcel No. 1-2713)

Said conditional-use permit shall be granted subject to the following conditions:

- a. Compliance with the development standards found in Ch. 13-1602(j), Green Bay Municipal Code.
- b. Compliance with the submitted operating plan.
- c. The rental agreement shall include contact information for the owner and an additional representative, as well as rules to ensure compliance with City nuisance regulations; and said information shall be submitted to the Planning Department.

Adopted _____

Approved _____

Mayor

Clerk

Request had previously been referred back to the Plan Commission.

**RESOLUTION AUTHORIZING CONDITIONAL-USE
APPROVAL AT THE 1250 BLOCK OF VELD AVENUE
(ZP 16-26)**

July 19, 2016

BY THE COMMON COUNCIL OF THE CITY OF GREEN BAY, RESOLVED:

That, pursuant to Zoning Petition 16-26 and the recommendation of the Plan Commission on July 11, 2016, the City of Green Bay does authorize a conditional-use permit to allow a drive-thru for a coffee distributor located on the following described property in the 1250 block of Veld Avenue:

LOT 3 OF 12 CSM 221 BNG PRT OF LAVENTURE CLAIM EX
PCL 132 OF TPP 1450-04-21-4.18 (Tax Parcel No. 18-782-L)

Said conditional-use permit shall be granted subject to the following conditions:

- a. The Veld Avenue driveway will be exit only.
- b. Compliance with all of the regulations of the Green Bay Municipal Code not covered under the conditional-use permit, including standard site plan review and approval.

Adopted July 19, 2016

Approved July 20, 2016

James J. Schmitt
Mayor

Kris A. Teske
Clerk

Moved by Ald. Scannell, seconded by Ald. Dorff to adopt the resolution.

Roll call: Ayes: Dorff, DeWane, Nicholson, Galvin, Nennig, Moore, Scannell, Wery, Zima, Steuer, Vander Leest, Sladek. Noes: None. Motion carried.

**RESOLUTION AUTHORIZING CONDITIONAL-USE
APPROVAL AT 1810 SOUTH RIDGE ROAD
(ZP 16-31)**

July 19, 2016

BY THE COMMON COUNCIL OF THE CITY OF GREEN BAY, RESOLVED:

That, pursuant to Zoning Petition 16-31 and the recommendation of the Plan Commission on July 11, 2016, the City of Green Bay does authorize a conditional-use permit for a Transient Residential use located on the following described property at 1810 South Ridge Road:

TANKS SUBD OF PC 12 & N 1/2 OF 13 WSFR THAT PRT OF
LOT 17 DES IN 322 D 611 BCR (Tax Parcel No. 6-307-C)

Said conditional-use permit shall be granted subject to the following conditions:

- a. Compliance with the development standards found in Ch. 13-1602(j), Green Bay Municipal Code.
- b. Compliance with the submitted operating plan.
- c. The rental agreement shall include contact information for the owner and an additional representative, as well as rules to ensure compliance with City nuisance regulations; and said information shall be submitted to the Planning Department.

Adopted July 19, 2016

Approved July 20, 2016

James J. Schmitt
Mayor

Kris A. Teske
Clerk

Moved by Ald. Scannell, seconded by Ald. Dorff to adopt the resolution.

Roll call: Ayes: Dorff, DeWane, Nicholson, Galvin, Nennig, Moore, Scannell, Wery, Zima, Steuer, Vander Leest, Sladek. Noes: None. Motion carried.

**RESOLUTION AUTHORIZING CONDITIONAL-USE
APPROVAL AT 1848 BROOK STREET
(ZP 16-11)**

July 19, 2016

BY THE COMMON COUNCIL OF THE CITY OF GREEN BAY, RESOLVED:

That, pursuant to Zoning Petition 16-11 and the recommendation of the Plan Commission on July 11, 2016, the City of Green Bay does authorize a conditional-use permit to operate minor auto repair in a Light Industrial (LI) District located on the following described property at 1848 Brook Street:

E 202.32 FT OF N 200 FT OF THAT PRT OF N1/2 OF SW1/4
SE1/4 SEC 32 T24N R21E LYG S OF BROOK ST & W OF SMITH BROS
GARDEN ADDN (Tax Parcel No. 21-1220-3)

Said conditional-use permit shall be granted subject to the following conditions:

- a. Compliance with all of the regulations of the Green Bay Municipal Code not covered under the conditional-use permit, including standard site plan review and permit approvals.
- b. All vehicle parts shall be stored inside of an enclosed building.
- c. There shall be no expansion of the conditional use without Plan Commission and Common Council approval.

Adopted July 19, 2016

Approved July 20, 2016

James J. Schmitt
Mayor

Kris A. Teske
Clerk

Moved by Ald. Scannell, seconded by Ald. Dorff to adopt the resolution.

Roll call: Ayes: Dorff, DeWane, Nicholson, Galvin, Nennig, Moore, Scannell, Wery, Zima, Steuer, Vander Leest, Sladek. Noes: None. Motion carried.

**RESOLUTION REGARDING VACATION OF
EXCESS RIGHT-OF-WAY AT THE
INTERSECTION OF FRANK STREET
AND SHADOW LANE**

July 19, 2016

BY THE COMMON COUNCIL OF THE CITY OF GREEN BAY:

WHEREAS, a request has been filed with the Common Council requesting vacation of excess right-of-way at the intersection of Frank Street and Shadow Lane, as depicted on the attached map; and

WHEREAS, the public interest may require that the aforesaid excess right-of-way be abandoned, vacated, and discontinued; and

WHEREAS, the Plan Commission of the City of Green Bay has given approval to such abandonment, vacation, and discontinuance subject to the following conditions:

1. A 12-ft. easement for Wisconsin Public Service's existing gas main in the vacated area is required.
2. The existing 8-ft. wide crosswalk easement (641R342) shall be extended northerly through vacated right-of-way or conveyed to the City with a quit claim deed.
3. All expenses to remove and relocate sidewalk, curb and gutter and the cost to repave the intersection shall be at the sole cost of the requestor.

4. This street vacation shall be void if the Zoning Petition (16-18) for rezoning and the creation of a Planned Unit Development does not receive approval.

NOW, THEREFORE, BE IT RESOLVED that it appears to be in the public interest that excess right-of-way at the intersection of Frank Street and Shadow Lane be abandoned, vacated, and discontinued by the City of Green Bay subject to the above-referenced conditions, and that a hearing be held on the abandonment, vacation, and discontinuance of the same on September 20, 2016, at 7:00 P.M. in the Council Chambers, City Hall, 100 North Jefferson Street, Green Bay, Wisconsin.

BE IT FURTHER RESOLVED that a notice of such hearing be served on the owners of the frontage of the lots and lands abutting on the portion of the street sought to be abandoned, vacated, and discontinued at least 30 days before such hearing, and that notice of such hearing be published in the official newspaper of the City of Green Bay once a week for three successive weeks before the date of hearing.

BE IT FURTHER RESOLVED that the City Attorney, upon adoption of this resolution, cause a lis pendens to be prepared and filed with the Register of Deeds for Brown County, Wisconsin, pursuant to §840.11, Wis. Stats.

Adopted July 19, 2016

Approved July 20, 2016

James J. Schmitt
Mayor

Kris A. Teske
Clerk

**LEGAL DESCRIPTION
VACATION OF EXCESS RIGHT-OF-WAY
AT THE INTERSECTION OF
FRANK STREET AND SHADOW LANE**

Part of Frank Street and part of Shadow Lane, being located in the Northerly 1/2 of Private Claim 13, West Side Fox River, City of Green Bay, Brown County, Wisconsin, more fully described as follows:

Commencing at the Brown County Surveyor Monument 40 Y/Z-14/15;

thence N25°52'40"E, 539.53 feet to Brown County Surveyor Monument 40 Y/Z-14/15(1) being an angle point on the centerline of Private Claim 13, WSFR, located at the intersection of Lombardi Ave. and Ridge Road;

thence N72°54'59"E, 447.29 feet to the west right-of-way of Frank Street and the point of beginning;

thence S25°52'29"W, 31.34 feet;

thence 139.51 feet along the arc of an 88.81 foot radius curve to the left whose long chord bears S19°07'41"E, 125.60 feet;

thence S64°07'51"E, 31.45 feet;

thence 267.24 feet along the south right-of-way of Shadow Lane and the west right-of-way of Frank Street being the arc of an 85.00 foot radius curve to the right whose long chord bears N19°09'12"W, 170.00 feet to the point of beginning.

Parcel contains 5,834 square feet / 0.13 acres more or less.

Parcel subject to easements and restrictions of record.

Moved by Ald. Scannell, seconded by Ald. Dorff to adopt the resolution.

Roll call: Ayes: Dorff, DeWane, Nicholson, Galvin, Nennig, Moore, Scannell, Wery, Zima, Steuer, Vander Leest, Sladek. Noes: None. Motion carried.

ORDINANCES - FIRST READING

GENERAL ORDINANCE NO. 14-16

AN ORDINANCE AMENDING SECTION 29.208, GREEN BAY MUNICIPAL CODE, RELATING TO PARKING REGULATIONS

THE COMMON COUNCIL OF THE CITY OF GREEN BAY DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 29.208, Green Bay Municipal Code, is hereby amended by removing therefrom the following NO PARKING zones:

BAIRD STREET, both sides, from a point 120 feet north of Day Street to a point 105 feet south of Day Street

BAIRD STREET, west side, from a point 145 feet north of University Avenue to a point 102 feet south of Stuart Street

SECTION 2. Section 29.208, Green Bay Municipal Code, is hereby amended by adding thereto the following NO PARKING zones:

BAIRD STREET, west side, from a point 102 feet south of Stuart Street to a point 120 feet north of Day Street

BAIRD STREET, east side, from a point 105 feet south of Day Street to a point 120 feet north of Day Street

SECTION 3. Section 29.208, Green Bay Municipal Code, is hereby amended by adding thereto the following NO PARKING LOADING ONLY zone:

ELM STREET, south side, from a point 220 feet west of Madison Street to a point 175 feet west of Madison Street

SECTION 4. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed.

SECTION 5. This ordinance shall take effect on and after its passage and publication.

Dated at Green Bay, Wisconsin this _____ day of _____, 2016.

APPROVED:

Mayor

ATTEST:

Clerk

Moved by Ald. Scannell, seconded by Ald. Wery to suspend the rules for the purpose of advancing the ordinance to the third reading. Motion carried.

Moved by Ald. DeWane, seconded by Ald. Scannell to advance the ordinance to the third reading. Motion carried.

GENERAL ORDINANCE NO. 15-16

AN ORDINANCE CREATING SECTION 1.66, GREEN BAY MUNICIPAL CODE, RELATING TO THE GREEN BAY PUBLIC ARTS COMMISSION

THE COMMON COUNCIL OF THE CITY OF GREEN BAY DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 1.66, Green Bay Municipal Code, is hereby created to read as follows:

1.66 GREEN BAY PUBLIC ARTS COMMISSION.

(1) Purpose. The arts are an intrinsic expression of life. Thriving communities enjoy shared experiences of diverse and abundant arts and culture. Arts investments creates jobs, leverage private gifts, build a sense of place, invite tourism, revitalize neighborhoods, attract creative people, cultivate democracy, preserve cultural legacy, generate local tax revenue, and enhance our quality of life. The Green Bay Public Arts Commission exists to fund artistic activities and support cultural programs that integrate and advance arts and culture as an essential part of life in Green Bay.

(2) Definitions.

(a) "Commission" means Green Bay Public Arts Commission

(3) Green Bay Public Arts Commission composition. The Commission is hereby created, consisting of five members. Of the membership and if available in the community, one shall be an alderperson and four shall be citizens with a preference for those who are involved with the visual arts, musical arts, or performing arts. The Mayor shall appoint the commissioners, subject to confirmation by the Common Council. Of the initial members appointed, one shall serve a term of one year, one shall serve a term of two years, and two shall serve a term of three years; the alderperson shall finish his or her term. Thereafter, the term for each member shall be three years, except for the alderperson who shall serve a term of two years. Each member is subject to the Code of Ethics as outlined in Green Bay Municipal Code § 1.90.

(4) Powers and duties of the Green Bay Public Arts Commission. The authority and activities of the Commission shall be advisory, and it shall act in a cooperative capacity and rely upon voluntary compliance. The basic function of the Commission shall be the development of public support for the arts. The duties of the Commission shall be to:

(a) Advise the Mayor and the Common Council with regard to policies, budgets, and regulations related to the arts, culture, and creative commerce;

(b) Implement the City's public arts program, including but not limited to, purchasing works of art or purchasing, commissioning, and siting works of art;

(c) Advise municipal efforts to engage artists and creative workers and the community in a broad range of civic initiatives;

(d) Consult with private entities, higher education institutions, and the community with regard to the City's arts, culture, and creative sector commerce;

(e) Coordinate and support efforts to unite and focus municipal programs and services as they relate to arts and cultural activities and creative sector commerce;

(f) Promote the design, construction and landscaping of public projects and private buildings, including public and private improvements, that enhance the beauty of the City;

(g) Establish and administer guidelines and procedures for distributing grants, issuing requests for proposals for creative services, and making recommendations of selections and awards to the Common Council,

(h) Advise all City departments on installation, maintenance, and deaccession of artwork;

(i) Review the performance of external contractors to the City in the areas of arts and culture; and

(j) Facilitate periodic cultural planning for the City.

SECTION 2. All ordinances or parts of ordinances, in conflict herewith are hereby repealed.

SECTION 3. This ordinance shall take effect on and after its passage and publication.

Dated at Green Bay, Wisconsin, this _____ day of _____, 2016.

APPROVED:

Mayor

ATTEST:

Clerk

Moved by Ald. Scannell, seconded by Ald. Wery to suspend the rules for the purpose of advancing the ordinance to the third reading. Motion carried.

Moved by Ald. DeWane, seconded by Ald. Scannell to advance the ordinance to the third reading. Motion carried.

GENERAL ORDINANCE NO. 16-16

AN ORDINANCE CREATING SECTION 21.11, GREEN BAY MUNICIPAL CODE, RELATING TO THE REPLACEMENT OF LEAD WATER SERVICE LINES

THE COMMON COUNCIL OF THE CITY OF GREEN BAY DOES ORDAIN AS FOLLOWS:

Section 1. Section 21.11, Green Bay Municipal Code, is hereby created to read:

21.11 LEAD WATER SERVICE LINE REPLACEMENT.

(1) Intent and Purpose. Lead service lines pose a threat to the public health based on the potential for leeching of lead into drinking water. The Common Council of the City of Green Bay therefore finds that it is in the public interest to establish a comprehensive program for the removal and replacement of lead pipe water service lines in use within the Green Bay Water Utility system and to that end declares the purposes of this ordinance to be as follows:

(a) to ensure that the water quality at every tap of Green Bay Water Utility customers meets the water quality standards specified under the federal Safe Drinking Water Act; and

(b) to reduce the lead in City drinking water to meet EPA standards in City drinking water for the health of City residents; and

(c) to meet the WDNR requirements for local compliance with the EPA's Lead and Copper Rule; and

(d) to effect the replacement of all high risk lead service lines within one (1) year of their discovery and the replacement of all remaining lead pipe water service lines in use in the City within ten (10) years.

(2) Authorization. This ordinance is enacted pursuant to Sec. 62.11(5) and Sec. 281.12(5), Wis. Stats., and as mandated by 42 U.S.C. Sec. 300g, of the Federal Safe Drinking Water Act, enforced by the EPA and the WDNR.

(3) Rules of Construction and Definitions. This ordinance and all rules and orders promulgated under this ordinance shall be liberally construed so that the purposes enumerated in subsection (1) may be accomplished. Words and phrases shall be construed and understood according to their common and usual meaning unless the contrary is clearly indicated. Within this section:

“Child care facility” means any state licensed or county certified child care facility including, but not limited to, licensed family child care, licensed group centers, licensed day camps, certified school-age programs and Head Start programs.

“City” means City of Green Bay.

“Confirmed water sample test” means a tap water analysis completed after a prior analysis that indicated lead levels at the EPA Action level and conducted in accordance with the Lead and Copper Rule, with Sec. NR 809.547, Wis. Adm. Code., and with instructions provided by the Water Utility.

“Customer-side water service line” means the water conduit pipe running from the customer’s meter to the curb stop which is the Water Utility shut-off valve usually located behind the curb on public property.

“EPA” means the U.S. Environmental Protection Agency.

“EPA Action level” means a concentration of 15 or more parts per billion (ppb) of lead as measured at a customer’s tap.

“Federal Safe Drinking Water Act” means 42 U.S.C.A. Sec. 300f-300j-26.

“General Manager” means the Water Utility General Manager.

“High risk lead service” means a lead customer-side water service line identified in Subsection (5) and any lead customer-side water service line where a confirmed water sample test of a customer’s tap water reveals a lead concentration at or above the EPA Action level.

“Lead and Copper Rule” means the rule created by the EPA and adopted by the WDNR in response to the passage of the Safe Drinking Water Act, which provides maximum contaminant level goals and national primary drinking water regulations

(NPDWR) for controlling lead and copper in drinking water. NPDWR regarding approved treatment techniques include corrosion control treatment, source water treatment, lead service line replacement and public education. The rule may be found in 56 FR 26460, 40 CFR part 141.80-141.90, and Chapter NR 809.541-NR 809.55, Wis. Adm. Code.

“Licensed plumber” means a person, firm, corporation or other entity licensed to perform plumbing work in the City by the State of Wisconsin.

“Ppb” means parts per billion.

“Property” means any possessory interest, legal or equitable, in real property including an estate, trust, or lien, and any buildings, structures and improvements thereon.

“Service replacement schedule” means the schedule adopted by the Water Utility Commission for the replacement of lead customer-side water service lines based on community resources, on availability of licensed plumbers and Water Utility resources to complete service line replacements, and on physical location of properties with lead customer-side water service lines. Based on the above factors, customers will be assigned a time period within the schedule for replacing their lead customer-side water service line. In no case shall a customer on this schedule have less than thirty (30) days from the date of notification pursuant to Subsection (6) for the replacement of any lead customer-side water service line.

“Water Utility” means the City of Green Bay public water utility system, also known as Green Bay Water Utility.

“WDNR” means the Wisconsin Department of Natural Resources.

(4) Survey and Self Inspections. Upon notice from the Water Utility, any person who owns, manages or otherwise exercises control over a property within the Green Bay Water Utility system shall allow the Water Utility to inspect the customer-side water service line or have the customer-side water service line inspected by a licensed plumber to determine whether the service line is lead, copper, cast iron, galvanized steel, plastic or other material.

(5) Lead Service Line Replacement.

(a) All of the following service line material combinations are subject to partial or full replacement with galvanized, copper, and/or plastic service lines under this ordinance as identified:

<u>Water Utility-Side</u>	<u>Customer-Side</u>	<u>Side Requiring Replacement</u>
Lead	Lead	Both
Lead	Galvanized	Water Utility Only

Lead	Copper	Water Utility Only
Lead	Plastic	Water Utility Only
Copper	Lead	Customer Only
Plastic	Lead	Customer Only

No other service line material combinations have been identified which require replacement under this ordinance.

(b) All lead water service lines must be replaced regardless of whether on the Water Utility-side or the customer-side. If a customer-side lead water service line is connected to a Water Utility-side lead water service line, both lines must be replaced at the time Water Utility is replacing its side of the lead water service line. As of the effective date of this ordinance, no lead service line will be allowed to connect to a Water Utility line once replaced.

(6) Replacement Priority. Owners, managers or persons otherwise exercising control over properties within the Green Bay Water Utility system with customer-side lead water service lines shall be required to replace the customer-side water service lines according to the following order of priority and based on the replacement schedule established by the Water Utility Commission:

- (a) Schools or child care facilities.
- (b) Properties at which a confirmed water sample test at the tap shows lead concentration at 15 or more ppb.
- (c) Properties where more than twenty (20) people regularly have access to drinking water during any eight-hour period.
- (d) Properties where the Water Utility is replacing its side of the lead water service line to the property.
- (e) All other properties not covered in Subsections (5)(a)-(d).

Notwithstanding the schedules set forth herein and any limitations on funding sources which may be made available to either the Water Utility or the customer, all customer-side water service lines identified herein shall be replaced no later than December 31, 2025.

(7) Scheduling. Replacement of customer-side lead pipes that are connected to a Water Utility-side lead service line must be completed at the time the Water Utility-side service line is replaced. Scheduling of all such replacements for customer-side lead pipes must be coordinated between the homeowner's contractor and the Water Utility within thirty (30) days of receipt of notice that the Water Utility-side water service lines are scheduled to be replaced. Additional time to schedule the customer-side lead pipe replacement may be granted by the General Manager of the Water Utility for good cause.

(8) Financing of Replacement. In the event funding is made available for this purpose through any means, an eligible property owner may apply to the City for

financing of any portion of the cost of replacing a lead customer-side water service line under the terms of such financing program. Disputes regarding eligibility for financing may be appealed to the Water Utility Commission, unless otherwise noted in the funding program. As a condition of receiving any available financing from the City, the property owner must provide adequate documentation demonstrating that the contractor and/or plumber completing the work anticipated hereunder is properly certified and/or licensed by the State of Wisconsin and/or the City, as appropriate.

(9) Exceptions.

(a) The Water Utility may modify the inspection requirement set forth under Subsection (4) if the customer so requests and demonstrates compelling need.

(b) Upon the demonstration of compelling need, the owner of a single-family dwelling or a business to which the public has no access to tap water and with no more than five (5) employees, may request a change of schedule or an extension of time for compliance with Subsections (5)-(7).

(c) Guidelines for the consideration of requests under Subsections (9)(a) and (9)(b) will be established by the Water Utility Commission.

(d) Compliance deadlines will be calculated on a calendar year basis but may be deferred during the months of December - March on the basis of weather constraints.

(10) Prohibitions. It shall be unlawful for any person to fail to comply with the applicable lead customer-side water service line replacement requirements as set forth herein or to violate any other provision of this ordinance.

(11) Penalties. Any person who violates any provision of this ordinance may be subject to a forfeiture of no less than fifty dollars (\$50) and no more than one thousand dollars (\$1,000). Each day a violation continues may be considered a separate offense.

(12) Severability. If any subsection or portion of this ordinance is for any reason held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, that subsection or portion shall be deemed severable and shall not affect the validity of the remaining portions of the ordinance.

SECTION 2. All ordinances or parts of ordinances, in conflict herewith are hereby repealed.

SECTION 3. This ordinance shall take effect on and after its passage and publication.

Dated at Green Bay, Wisconsin this _____ day of _____,
2016.

APPROVED:

Mayor

ATTEST:

Clerk

Moved by Ald. Scannell, seconded by Ald. Wery to suspend the rules for the purpose of advancing the ordinance to the third reading. Motion carried.

Moved by Ald. DeWane, seconded by Ald. Scannell to advance the ordinance to the third reading. Motion carried.

GENERAL ORDINANCE NO. 17-16

AN ORDINANCE AMENDING SECTION 33.08(2), GREEN BAY MUNICIPAL CODE, RELATING TO RESTRICTIONS ON LOCATION OF ALCOHOL LICENSES

THE COMMON COUNCIL OF THE CITY OF GREEN BAY DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 29.208, Green Bay Municipal Code, is hereby amended by removing therefrom the following NO PARKING zones:

(2) RESTRICTIONS ON LOCATION. (Amd. GO 11-00) (Amd. GO 25-10) No alcohol license shall be issued for a premises when any portion of the structure housing the premises would be less than 300 feet from any portion of a structure housing any established public school, parochial school, hospital, or church; **said restriction may be waived by a two-thirds vote of the governing body.** This subsection shall not apply to:

(a) any premises licensed as such on March 25, 2000;

(b) any premises licensed as such prior to the occupation within 300 feet thereof of any school building, hospital building, or church building;

(c) any Special Event or Picnic license; or

(d) any premises operated under both a Class "B" (Beer) or "Class B" (Liquor) license and a restaurant permit where the principal business conducted is that of a restaurant.

SECTION 2. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed.

SECTION 3. This ordinance shall take effect on and after its passage and publication.

Dated at Green Bay, Wisconsin this _____ day of _____, 2016.

APPROVED:

Mayor

ATTEST:

Clerk

Moved by Ald. Scannell, seconded by Ald. Wery to suspend the rules for the purpose of advancing the ordinance to the third reading. Motion carried.
Moved by Ald. DeWane, seconded by Ald. Scannell to advance the ordinance to the third reading. Motion carried.

ZONING ORDINANCE NO. 13-16

AN ORDINANCE CREATING A PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT FOR PROPERTIES LOCATED ALONG THE NORTHEAST CORNER OF SOUTH RIDGE ROAD AND LOMBARDI AVENUE (ZP 16-18)

THE COMMON COUNCIL OF THE CITY OF GREEN BAY DOES ORDAIN AS

FOLLOWS:

SECTION 1. Section 13-108, Green Bay Municipal Code, together with the zoning map referred to therein, is hereby amended by establishing a Planned Unit Development District (PUD) on the following described properties:

1835 S. Ridge Road: PARCELS A & B OF 3 CSM 553 EX J01633-04 CORRECTED IN 2677367 BNG PRT OF LOT 16 CLA TANKS SUBD OF PC 12 & N1/2 OF 13W WSFR EX RD IN 2307919 (Tax Parcel No. 1-1423)

1825 S. Ridge Road: TANKS SUBD OF PC 12 & N 1/2 OF 13 WSFR PRT DESCR IN 286 D 62 & 287 D 595 BCR & 330 D 151 & W 30 FT OF LOT 6 BLK 5 THORNDALE SUB (Tax Parcel No. 1-1423-A-2)

1821 S. Ridge Road: THORNDALE SUB LOT 4 BLK 5 (Tax Parcel No. 1-2192)

1297 Thorndale Street: THORNDALE SUB LOT 3 BLK 5 (Tax Parcel No. 1-2191)

1291 Thorndale Street: THORNDALE SUB LOT 2 BLK 5 (Tax Parcel No. 1-2190)

1818 Frank Street: THORNDALE SUB LOT 1 BLK 5 (Tax Parcel No. 1-2189)

1824 – 1826 Frank Street: THAT PART OF PARCEL B VOL 3 CSM PAGE 553 DESC IN J01633-04 CORRECTED IN 2677367 BNG PRT OF LOT 6 BLK 5 THORNDALE SUBD & PART OF LOT 16 CLA TANKS SUBD OF PC 13 & N1/2 OF PC 13W (Tax Parcel No. 1-2194)

SECTION 2. Pursuant to Section 13-1900, et seq., Green Bay Municipal Code, as they apply, the following conditions are imposed:

- A. Purpose and Intent. The PUD is being utilized to permit the construction of a multi-story, mixed-use building known as Vainisi Plaza. Due to the proximity to residential properties, appropriate buffering is desired to minimize impacts on the surrounding low density residential properties yet, enhance the changing corridor along Lombardi Avenue and South Ridge Road. The general appearance and design of the site shall comply with the attached Exhibits A to I.
- B. Permitted Uses. The land uses which may be established and/or maintained on the subject property are as follows:
 1. Multiple-family dwellings, above the first floor.

2. College, University, specialty school or personal instruction.
3. General Office.
4. Bank or other financial institution, excluding drive-thru.
5. Medical office, clinic, animal hospital, veterinary clinic.
6. Health Club, fitness center.
7. Artist's studio, gallery.
8. Restaurants, including catering as part of the principal use; excludes drive-thru.
9. Theater/assembly hall.
10. Personal and business services as defined in the Green Bay Zoning Code.
11. General retail sales limited to the first and second floor of the building.
12. Surface parking as an accessory uses to provide required parking for the permitted principal uses.
13. All other proposed uses are subject to review and consent by the Community Development Review Team (CDRT) and the Green Bay Plan Commission.

C. Dimensional and Area Requirements. Dimensional and area requirements for principal structures on the subject property shall be as required as follows:

1. Setback, Height & Impervious Coverage:
 - a. Front yard (Lombardi Avenue): 25 feet maximum
 - b. Corner side yard setbacks (South Ridge Road): 20 feet maximum
 - c. Rear (Thorndale Street): 15 feet
 - d. Interior side yard (Frank Street): 15 feet
 - e. A 20 foot setback shall be maintained along the south, west and north property line adjacent to 1820 Frank Street
 - f. The principal building shall not exceed 75 feet in height
 - g. Impervious coverage: The development shall not exceed 80% impervious coverage of the site.

D. Architecture. All building elevations shall generally comply with Exhibits B, C and D and subject to the following requirements:

1. Ground floor facades that face public streets or pedestrian walkways shall have features, such as arcades, display windows, entry areas, awnings, or other such features for no less than forty percent (40%) of the horizontal length of the façade.
2. Wall articulation. No wall that faces a street or connecting walkway shall have a blank, uninterrupted horizontal length exceeding thirty (30) feet without including at least one (1) of the following: change in plane,

change in texture or masonry pattern, windows, or an equivalent element that subdivides the wall into human scale proportions. Vertical expansions are excluded at all building entrances.

3. Four-sided design. All sides of the building shall include materials and design characteristics similar to and compatible with those on the front. Front building facades shall contain windows at the ground floor or first floor in order to create visual interest.
4. Building materials. All building facades shall be designed with architecturally-finished materials. Durable materials, such as masonry or stucco, shall be used on all street-facing facades. Architectural metal panels are permitted as accents to the building.

E. Lighting. All lighting on the subject property shall be regulated as set forth in Section 13-523, Green Bay Zoning Code and the following:

1. All building lighting shall be compliant with Chapter 13-526, Green Bay Municipal Code.
2. No pole light shall exceed 20 feet in overall height and shall be shielded when adjacent to a property line or right-of-way line complaint with Chapter 13-527(a) (1), Green Bay Municipal Code.
3. A detailed photometric plan shall be submitted and reviewed by staff compliant with Chapter 13-524, Green Bay Municipal Code.

F. Signage. All signage for the current project shall be regulated as follows:

1. All signs shall be constructed and in compliance with Chapter 13-2004, Green Bay Municipal Code.
2. One illuminated, two-sided monument sign not to exceed 12 feet in overall height is permitted along South Ridge Road and Lombardi Avenue frontages; each sign face shall not exceed 150 square feet and may contain multi-tenant panels (Exhibit E).
3. Each tenant space is permitted one wall sign limited to the Lombardi Avenue and South Ridge Road street frontages not to exceed 50 square feet per sign (Exhibit F).
4. One building identification sign is permitted at the entrance to the north building façade not to exceed 75 square feet (Exhibit G).
5. Directional signs are not to exceed 12 square feet per sign face (Exhibit H).

6. No other signage, except for directional signage, shall face a residentially-zoned parcel.

G. Site Plan Review & Standards.

1. A site plan shall be submitted and review per Chapter 13-1800, Green Bay Municipal Code.
2. All service, loading and refuse areas shall be screened per Chapter 13-1813, Green Bay Municipal Code, but may not encroach closer than 20 feet to a public right-of-way/walkway.
3. Any ground-mounted and/or roof-mounted mechanicals shall be screened compliant with Chapter 13-1815, Green Bay Municipal Code.

H. Parking/Pedestrian Access.

1. All parking shall be regulated as required in Chapter 13-1700, Green Bay Municipal Code.
2. No vehicular access shall be permitted to Thorndale Street and Frank Street.
3. Pedestrian access shall be provided from all public streets adjoining the development and connected via an internal pedestrian network to the primary entrance of the principal buildings.
4. Bike parking facilities provided adjacent to each principal building in close proximity to a primary entrance.

I. Landscaping/Transitional Yard.

1. A detailed landscape plan shall be submitted identifying the type and placement of all plant materials (Exhibit I).
2. A minimum 4-foot high, but not to exceed 8-feet high, impervious fence, in combination with a berm, is required along the Thorndale Street and Frank Street frontage compliant with Chapter 13-510 and Chapter 13-1820 (C), Green Bay Municipal Code.
3. Dense landscaping shall be implemented with mature plantings.

- J. A stormwater management plan, meeting the standards established by the City's Department of Public Works, shall be submitted to and approved by

the City prior to the issuance of a building permit. See Chapter 30, Green Bay Municipal Code.

- K. All tax parcels shall be combined into one tax parcel.
- L. The pending Traffic Impact Analysis (TIA) be completed and agreed to by the City of Green Bay and the developer.
- M. The vacation of a portion of Frank Street as proposed on Exhibit A.
- N. Compliance with all of the regulations of the Green Bay Municipal Code not covered under the PUD.

SECTION 3. The provisions of this ordinance, including, without limitation, the granting of a conditional use permit and all obligations, conditions, restrictions, and limitations related thereto shall run with and be jointly and severally binding upon the fee simple owner and the beneficial owner of all or any portion of the subject property.

All obligations, requirements, and rights of the owner shall run with the land and shall automatically be assigned to be binding upon and inure to the benefit of its successors and assigns, including, but not limited to, any entity acquiring any financial interest in the subject property and/or any subsequent owner and/or beneficial owner of all or any portion of the subject property.

SECTION 4. Each exhibit which is attached to this ordinance is deemed to be and is expressly made a part of and incorporated into this ordinance to the same extent as if each such exhibit and the plans identified therein had been set forth in its entirety in the body of this ordinance.

SECTION 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 6. In addition to all other remedies available to the City of Green Bay, the City may decline to issue any building or other permits otherwise required by any ordinance of this City while any violation of this ordinance remains uncured.

SECTION 7. If any provision in this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such a decision shall not affect the validity of any other provision of this ordinance. It is hereby declared to be the intention of the City of Green Bay that all provisions of this ordinance are separable.

SECTION 8. This ordinance shall not take effect until a public hearing is held thereon as provided by Section 13-204, Green Bay Municipal Code, and the adoption and publication of this ordinance.

Dated at Green Bay, Wisconsin, this _____ day of _____, 2016.

APPROVED:

Mayor

ATTEST:

Clerk

Moved by Ald. Wery, seconded by Ald. Scannell to advance the ordinance to the third reading.

Roll call: Ayes: Dorff, DeWane, Nicholson, Galvin, Nennig, Moore, Scannell, Wery, Zima, Steuer, Vander Leest, Sladek. Noes: None. Motion carried.

28. Zoning Ordinance No. 14-16

An ordinance rezoning property located at 1835, 1825, and 1821 S. Ridge Road; 1297 and 1291 Thorndale Street and 1291 and 1824-1826 Frank Street from General Commercial (C1) District and Low Density Residential (R1) District to Office Residential (OR) District.

Moved by Ald. Wery, seconded by Ald. Scannell to advance the ordinance to the third reading.

Roll call: Ayes: Dorff, DeWane, Nicholson, Galvin, Nennig, Moore, Scannell, Wery, Zima, Steuer, Vander Leest, Sladek. Noes: None. Motion carried.

ZONING ORDINANCE NO. 15-16

**AN ORDINANCE
CREATING A PLANNED UNIT DEVELOPMENT
OVERLAY DISTRICT FOR PROPERTIES
LOCATED AT 1599 UNIVERSITY AVENUE
(ZP 16-30)**

THE COMMON COUNCIL OF THE CITY OF GREEN BAY DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 13-108, Green Bay Municipal Code, together with the zoning map referred to therein, is hereby amended by establishing a Planned Unit Development (PUD) District on the following described properties:

NEWBERRYS ADD SUBD #1 PRT O F LOTS 33-34 & 44 DES IN 251 D 117
255 D 139 330 D 258 235 D 248 & E 1/2 OF E 149.70 FT OF LOT 34 EX N 195 FT &
PRT OF LOT 44 E OF K G B & W RR AS DESC IN 97 D 149 & 1/2 VAC ST ADJ IN
2343476 & PRT OF LOTS 34 (Tax Parcel No. 19-31-A)

SECTION 2. Pursuant to Section 13-1900, et seq., Green Bay Municipal Code, as they apply, the following conditions are imposed:

- A. Purpose and Intent. The PUD is being utilized to permit the construction of several separate self-service storage units. Due to the proximity to residential properties, appropriate buffering is desired to minimize impacts on the surrounding low density residential properties yet, enhance the corridor along University Avenue and Elizabeth Street. The general appearance and design of the site shall comply with the attached Exhibits A to D.
- B. Permitted Uses. The land uses which may be established and/or maintained on the subject property are as follows:
 - 1. Self-service storage units.
 - 2. No commercial transactions shall be permitted other than the rental of storage units.
 - 3. Surface parking as an accessory use to provide required parking for the permitted principal uses.
 - 4. No outdoor storage of materials/goods is permitted.
- C. Dimensional and Area Requirements. Dimensional and area requirements for principal structures on the subject property shall be as required as follows:
 - 1. Setback, Height & Impervious Coverage:
 - a. Front yard (Elizabeth Street): 15 feet maximum
 - b. Rear and Interior side yard: 10 feet, parking 0 feet.
 - c. Principal buildings shall not exceed 20 feet in height.
 - d. The development shall not exceed 85% impervious coverage of the site.

- D. Architecture. All building elevations shall generally comply with Exhibits B, C and D. All building facades shall be designed with architecturally-finished materials. Durable materials, such as masonry or stucco, shall be used on all street-facing facades.
- E. Lighting. All lighting on the subject property shall be regulated as set forth in Section 13-523, Green Bay Municipal Code, and the following:
1. All building lighting shall be compliant with Chapter 13-526, Green Bay Municipal Code.
 2. No pole light shall exceed 20 feet in overall height and shall be shielded when adjacent to a property line or right-of-way line complaint with Chapter 13-527(a) (1), Green Bay Municipal Code.
- F. Signage. All signage for the current project shall be regulated as follows:
1. All signs shall be constructed and in compliance with Chapter 13-2004 Green Bay Municipal Code.
 2. One illuminated, two-sided monument sign not to exceed 8 feet in overall height is permitted along Elizabeth Street. The sign face shall not exceed 100 square feet and may contain multi-tenant panels.
 3. Wall-mounted signage is not permitted.
 4. Directional signs are not to exceed 6 square feet per sign face.
- G. Site Plan Review & Standards.
1. A site plan shall be submitted and reviewed per Chapter 13-1800, Green Bay Municipal Code.
 2. All service, loading and refuse areas shall be screened per Chapter 13-1813, Green Bay Municipal Code, but may not encroach closer than 20 feet to a public right-of-way/walkway.
 3. Any ground-mounted and/or roof-mounted mechanicals shall be screened compliant with Chapter 13-1815, Green Bay Municipal Code.
 4. Parking standards shall be complaint with Chapter 13-1700, Green Bay Municipal Code.
- H. Landscaping/Transitional Yard.
1. A detailed landscape plan shall be submitted identifying the type and placement of all plant materials.
 2. A 7-foot high impervious fence is required along the north property line.
- I. A stormwater management plan, meeting the standards established by the City's Department of Public Works, shall be submitted to and approved by

the City prior to the issuance of a building permit. See Chapter 30, Green Bay Municipal Code.

- J. Compliance with all of the regulations of the Green Bay Municipal Code not covered under the PUD.

SECTION 3. The provisions of this ordinance, including, without limitation, the granting of a conditional-use permit and all obligations, conditions, restrictions, and limitations related thereto shall run with and be jointly and severally binding upon the fee simple owner and the beneficial owner of all or any portion of the subject property.

All obligations, requirements, and rights of the owner shall run with the land and shall automatically be assigned to be binding upon and inure to the benefit of its successors and assigns, including, but not limited to, any entity acquiring any financial interest in the subject property and/or any subsequent owner and/or beneficial owner of all or any portion of the subject property.

SECTION 4. Each exhibit which is attached to this ordinance is deemed to be and is expressly made a part of and incorporated into this ordinance to the same extent as if each such exhibit and the plans identified therein had been set forth in its entirety in the body of this ordinance.

SECTION 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 6. In addition to all other remedies available to the City of Green Bay, the City may decline to issue any building or other permits otherwise required by any ordinance of this City while any violation of this ordinance remains uncured.

SECTION 7. If any provision in this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such a decision shall not affect the validity of any other provision of this ordinance. It is hereby declared to be the intention of the City of Green Bay that all provisions of this ordinance are separable.

SECTION 8. This ordinance shall not take effect until a public hearing is held thereon as provided by Section 13-204, Green Bay Municipal Code, and the adoption and publication of this ordinance.

Dated at Green Bay, Wisconsin, this _____ day of _____, 2016.

APPROVED:

Mayor

ATTEST:

Clerk

Moved by Ald. Scannell, seconded by Ald. Wery to suspend the rules for the purpose of advancing the ordinance to the third reading. Motion carried.

Moved by Ald. DeWane, seconded by Ald. Scannell to advance the ordinance to the third reading. Motion carried.

ZONING ORDINANCE NO. 16-16

**AN ORDINANCE
REZONING PROPERTY LOCATED
AT 1599 UNIVERSITY AVENUE
FROM GENERAL COMMERCIAL (C1) DISTRICT
AND LOW DENSITY RESIDENTIAL (R1) DISTRICT
TO LIGHT INDUSTRIAL (LI) DISTRICT
(ZP 16-30)**

THE COMMON COUNCIL OF THE CITY OF GREEN BAY DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 13-108, Green Bay Municipal Code, together with the zoning map referred to therein, is hereby amended by rezoning the following described property from General Commercial (C1) District and Low Density Residential (R1) District to Light Industrial (LI) District:

NEWBERRYS ADD SUBD #1 PRT O F LOTS 33-34 & 44 DES IN 251 D
117 255 D 139 330 D 258 235 D 248 & E 1/2 OF E 149.70 FT OF LOT 34 EX N
195 FT & PRT OF LOT 44 E OF K G B & W RR AS DESC IN 97 D 149 & 1/2
VAC ST ADJ IN 2343476 & PRT OF LOTS 34 (Tax Parcel No. 19-31-A)

SECTION 2: This rezoning shall be subject to approval of the Planned Unit Development Ordinance for the subject property.

SECTION 3. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed.

SECTION 4. This ordinance shall not take effect until a public hearing is held thereon as provided by Section 13-204, Green Bay Municipal Code, and the adoption and publication of this ordinance.

Dated at Green Bay, Wisconsin, this _____ day of _____, 2016.

APPROVED:

Mayor

ATTEST:

Clerk

Moved by Ald. Scannell, seconded by Ald. Wery to suspend the rules for the purpose of advancing the ordinance to the third reading. Motion carried.

Moved by Ald. DeWane, seconded by Ald. Scannell to advance the ordinance to the third reading. Motion carried.

ORDINANCES - THIRD READING

Moved by Ald. Moore, seconded by Ald. Scannell to suspend the rules for the purpose of adopting the General Ordinances with one roll call vote. Motion carried.

GENERAL ORDINANCE NO. 11-16

AN ORDINANCE AMENDING SECTION 2.06(14), GREEN BAY MUNICIPAL CODE, RELATING TO CALLING A COMMITTEE OF THE WHOLE

THE COMMON COUNCIL OF THE CITY OF GREEN BAY DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 2.06(14) Green Bay Municipal Code, is hereby amended to read:

(14) COMMITTEE OF THE WHOLE. The Mayor or the President of the Council may declare the entire Council a committee of the whole for informal discussion at any meeting or for any other purpose, ~~and shall ex officio be chairman of the same,~~ provided there is no objection ~~by any of the aldermen present at the meeting.~~ made by the majority of the aldermen present at the meeting. The Mayor shall ex officio be chairman of such meeting; or, if the Mayor is not present, the Council President shall act as chairman in his absence.

SECTION 2. All ordinances or parts of ordinances, in conflict herewith are hereby repealed.

SECTION 3. This ordinance shall take effect on and after its passage and publication.

Dated at Green Bay, Wisconsin this 19th day of July, 2016.

APPROVED:

James J. Schmitt
Mayor

ATTEST:

Kris A. Teske
Clerk

Moved by Ald. Moore, seconded by Ald. Scannell to adopt the ordinance.
Roll call: Ayes: Dorff, DeWane, Nicholson, Galvin, Nennig, Moore, Scannell, Wery, Zima, Steuer, Vander Leest, Sladek. Noes: None. Motion carried.

GENERAL ORDINANCE NO. 12-16

AN ORDINANCE AMENDING CHAPTER 30, GREEN BAY MUNICIPAL CODE, RELATING TO STORM WATER MANAGEMENT

THE COMMON COUNCIL OF THE CITY OF GREEN BAY DOES ORDAIN AS
FOLLOWS:

SECTION 1. Chapter 30, Green Bay Municipal Code, is hereby amended. A copy of the changes to Chapter 30 is attached hereto.

SECTION 2. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed.

SECTION 3. This ordinance shall take effect on and after its passage and publication.

Dated at Green Bay, Wisconsin this 19th day of July, 2016.

APPROVED:

James J. Schmitt
Mayor

ATTEST:

Kris A. Teske
Clerk

CHAPTER 30

STORM WATER MANAGEMENT (Rep. & Rec. GO 32-08)

30.01	Authority
30.02	Findings of Fact
30.03	Purpose and Intent
30.04	Definitions
30.05	Applicability and Jurisdiction
30.06	Storm water Management Standards
30.07	Permitting Requirements and Procedures and Fees
30.08	Storm water Management Plans
30.09	Maintenance Agreement
30.10	Enforcement and Penalties
30.11	Appeals
30.12	Severability
30.20	Storm water Utility (Cr. GO 6-04)

30.01 **AUTHORITY**

- (1) This ordinance is adopted by the City of Green Bay pursuant to its police powers and under the authority granted by **§62.234** ~~§281.33~~, Wis. Stats. This ordinance supersedes all conflicting and contradictory storm water management regulations previously enacted under §62.23, Wis. Stats. Except as specifically provided for in **§62.234** ~~§281.33~~, Wis. Stats., §62.23, Wis. Stats., applies to this ordinance and to any amendments to this ordinance.
- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.
- (3) The City of Green Bay hereby designates the Director of Public Works to have the administering authority to administer and enforce the provisions of this ordinance.
- (4) The requirements of this ordinance do not pre-empt more stringent storm water management requirements that may be imposed by any of the following:
 - (a) Wisconsin Department of Natural Resources administrative rules, permits or approvals, including those authorized under ss. 281.16 and 283.33, Wis. Stats.
 - (b) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code.

30.02 **FINDINGS OF FACT**. The City of Green Bay finds that uncontrolled storm water runoff from land development activity has a significant impact upon water resources and the health, safety, and general welfare of the community. ~~WDNR Language: The City of Green Bay acknowledges that uncontrolled, post-construction runoff has a significant impact upon water resources and the health, safety and general welfare of the community~~ **and diminishes the public enjoyment and use of natural resources.** Specifically, uncontrolled **post-construction land development activity** runoff can:

- (1) Degrade physical stream habitat by increasing stream bank erosion, increasing stream bed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperature.
- (2) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational, and water supply uses by increasing pollutant loadings of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants.

- (3) Alter wetland communities by changing wetland hydrology and by increasing pollutant loads.
- (4) Reduce the quality of groundwater by increasing pollutant **loadings**.
- (5) Threaten public health, safety, property, and general welfare by overtaxing storm sewers, drainage ways and other minor drainage facilities.
- (6) Threaten public health, safety, property, and general welfare by increasing major flood peaks and volumes.
- (7) Undermine floodplain management efforts by increasing the incidence and levels of flooding.
- ~~(8) Diminish the public enjoyment of natural resources.~~

30.03 **PURPOSE AND INTENT.**

- (1) PURPOSE. The ~~general~~ purpose of this ordinance is to ~~set forth~~ **establish** long-term, ~~post-construction runoff~~ storm water management requirements and criteria that will prevent and control water pollution and diminish the threats to public health, safety, welfare, and aquatic **environment** life due to runoff of storm water from development or redevelopment. Specific purposes are to:
 - (a) Further the maintenance of safe and healthful conditions.
 - (b) Prevent and control the adverse effects of storm water; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth.
 - (c) Control exceedance of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; **and** control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger downstream property.
- (2) INTENT. It is the general intent of the City of Green Bay that this ordinance achieves its purpose through:

- (a) Regulating long-term, post-construction land development activity storm water discharges to waters of the State and U.S. from land development activities;
- (b) Controlling the quantity, peak flow rates, and quality of storm water discharges from land development activities; and
- (c) It is more fully the intent of the City of Green Bay to provide services to maintain and enhance the quality of life within the community. To this end, the City of Green Bay will manage storm water to protect, maintain, and enhance the natural environment, diversity of fish and wildlife, human life, property, and recreational use of waterways within the City of Green Bay area.
- (d) This ordinance may be applied on a site-by-site basis.
- (e) The City of Green Bay recognizes, however, that the preferred method of achieving the storm water performance standards set forth in this ordinance is through the preparation and implementation of comprehensive, systems-level storm water management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional storm water devices, practices or systems, any of which may be designed to treat runoff from more than one site prior to discharge to waters of the state. Where such plans are in conformance with the performance standards developed under s. 281.16, Wis. Stats., for regional storm water management measures and have been approved by the City Council, it is the intent of this ordinance that the approved plan be used to identify post-construction management measures acceptable for the community.

~~(2) INTENT. It is the intent of the City of Green Bay that this ordinance regulates post-construction storm water discharges to waters of the state. This ordinance may be applied on a site by site basis. The City of Green Bay recognizes, however, that the preferred method of achieving the storm water performance standards set forth in this ordinance is through the preparation and implementation of comprehensive, systems-level storm water management plans that cover hydrologic nits, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional storm water devices, practices or systems, any of which may be designed to treat runoff from more than one site prior to discharge to waters of the state. Where such plans are in conformance with the performance standards developed under s. 281.16, Wis. Stats., for regional storm water management measures and have been approved by the City of Green Bay, it is the intent of this ordinance that the approved storm water management plan be used to identify post-construction management measures acceptable for the community.~~

30.04 **DEFINITIONS.**

- (1) ADMINISTERING AUTHORITY means the governmental employee designated by the City of Green Bay to administer this ordinance. The Director of Public Works has been designated to have the authority to administer this ordinance, §30.01(3).
- (2) AGRICULTURAL ACTIVITY AREA means the part of the farm where there is planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or outside yarding of livestock, including sod farms and silviculture. Practices in this area may include waterways, drainage ditches, diversions, terraces, farm lanes, excavation, filling and similar practices. The agricultural activity area does not include the agricultural production area.
- (3) AGRICUTURUAL PRODUCTION AREA means the part of the farm where there is concentrated production activity or impervious surfaces. Agricultural production areas include buildings, driveways, parking areas, feed storage structures, manure storage structures, and other impervious surfaces. The agricultural production area does not include the agricultural activity area.
- (4) AGRICUTURUAL FACILITIES AND PRACTICES has the meanings given in s. 281.16(1), Wis. Stats.
- (5) APPLICANT means any landowner, land user(s), their agent, assignee, or contractor responsible for submitting and carrying out the requirements of this ordinance. Applicant shall also mean any subsequent landowner to whom this ordinance applies.
- (6) AVERAGE ANNUAL RAINFALL means a ~~calendar year of precipitation, excluding snow, which is considered typical.~~ **typical year of precipitation as determined by the Wisconsin Department of Natural Resources for users of models such as WinSLAMM, P8 or equivalent methodology. The average annual rainfall is chosen from a Department publication for the location closest to the municipality.** For purposes of this ordinance, average annual rainfall means measured precipitation in Green Bay, Wisconsin between March 29 and November 25, 1969.
- (7) BEST MANAGEMENT PRACTICE or “BMP” means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in runoff to waters of the state.
- (8) BUSINESS DAY means a day that offices of the City of Green Bay are routinely and customarily open for business.
- (9) CEASE AND DESIST ORDER means a court issued order to halt land developing **or disturbing** ~~construction~~ activity that is being conducted without

the required permit or in violation of a permit issued by the City of Green Bay.

- (10) **COMBINED SEWER SYSTEM** means a system for conveying both sanitary sewage and storm water runoff.
- (11) **COMMON PLAN OF DEVELOPMENT OR SALE** means all lands included within the boundary of a certified survey or subdivision plat created for the purpose of development or sale of property where multiple separate and distinct land developing activity may take place at different times and on different schedules.
- (12) **CONNECTED IMPERVIOUSNESS** means an impervious surface ~~that is directly connected to a separate storm sewer or water of the state via an impervious flow path.~~ **connected to the waters of the State or U.S. via a separate storm sewer, an impervious flow path, or a minimally pervious flow path.**
- (13) **CONSTRUCTION SITE** means an area upon which one or more land disturbing ~~construction~~ activities occur, including areas that are part of a larger common plan of development or sale.
- (14) **DEVELOPMENT DISTRICT(S)** means one of three districts that make up the City of Green Bay to promote development in a prioritized fashion according to projected population and land use needs as established by General Ordinance 17-90, **and found in §14-212.**
- (15) **DESIGN RAINFALL EVENT** means a discrete rainstorm characterized by a specific duration, rainfall intensity, and return frequency.
- (16) **DESIGN STORM** means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall. The TR-55, Type II, 24-hour design storms for the City of Green Bay are: 1-year, 2.2-inches; 2-year, 2.5-inches; 5-year, 3.3-inches; 10-year, 3.8-inches; 25-year, 4.4-inches; and 100-year, 5.3-inches.
- (17) **DIRECT CONDUIT TO GROUNDWATER** means wells, sinkholes, swallets, fractured bedrock at the surface, mine shafts, non-metallic mines, tile inlets discharge to groundwater, quarries, or depressional groundwater recharge areas over shallow fractured bedrock.
- (18) **DISCHARGE VOLUME** means the quantity of runoff discharged from the land surface as the result of a rainfall event.

- (19) DIVISION OF LAND means the creation from one parcel of two or more parcels or building sites of 20 or fewer acres each in areas where such creation occurs at one time or through the successive partition within a 5-year period.
- (20) EFFECTIVE INFILTRATION AREA means the area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.
- (21) EROSION means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.
- (22) EXISTING LAND-USE CONDITION means the condition of the proposed development site and the adjacent properties that are present at the time of the storm water permit application. This term applies only for the purpose of properly sizing storm water detention facilities ~~ponds~~ per §30.06(3)(a) and properly sizing storm water conveyance systems in accordance to the requirements of this ordinance, §30.06(3)(b).
- (23) EXCEPTIONAL RESOURCE WATERS **means waters listed in s. NR 102.11, Wis. Amd.Code.**
- (24) FEE IN LIEU means a payment of money to the City of Green Bay in place of meeting all or part of the storm water performance standards required by this ordinance.
- (25) FINAL STABILIZATION means that all land disturbing construction activities at the construction site have been completed and that a uniform, perennial, vegetative cover has been established, with a density of at least 70% of the cover, for the unpaved areas and areas not covered by permanent structures, or employment of equivalent permanent stabilization measures.
- (26) FINANCIAL GUARANTEE **means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the City of Green Bay by the responsible party to assure that requirements of the ordinance are carried out in compliance with the storm water management plan.**
- (27) FUTURE PROPOSED LAND USE OR POST-DEVELOPMENT CONDITIONS means any proposed land alterations or disturbances, including, but not limited to, removal of vegetative cover, excavating, filling/grading, construction of buildings, roads, parking lots, paved storage areas, and similar facilities.
- (28) GOVERNING BODY **means the City Council.**
- (29) GROSS AGGREGATE AREA means the total area, in acres, of all land located within the property boundary containing the land development activity.

- (30) GROUNDWATER ENFORCEMENT STANDARD means a numerical value expressing the concentration of a substance in groundwater, which is adopted under §160.07, Wis. Stats., and NR 140.10, Wis. Admin. Code, or §160.09, Wis. Stats., and NR 140.12, Wis. Admin. Code.
- (31) GROUNDWATER PREVENTIVE ACTION LIMIT means a numerical value expressing the concentration of a substance in groundwater that is adopted under §160.15, Wis. Stats., and NR 140.12 or 140.20, Wis. Admin. Code.
- (32) IMPERVIOUS SURFACE means ~~a surface that does not allow infiltration during precipitation events. Rooftops, sidewalks, parking lots, and street surfaces are examples of impervious surface.~~ **an area that releases as runoff all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, swimming pools, ponds, decks, sidewalks, driveways, gravel and paved parking lots and streets are examples of areas that typically are impervious.**
- (33) IN-FILL AREA means ~~a new development area less than 5 acres in size that is located within existing urban sewer service areas, surrounded by already existing development or existing development and natural or man-made features where development cannot occur.~~ **an undeveloped area of land located within an existing urban sewer service area surrounded by development or development and natural or man-made features where development cannot occur.**
- (34) INFILTRATION means the process by which rain, **precipitation** or surface runoff **enters or** penetrates into **or through** the underlying soil. ~~means the entry of precipitation or runoff into or through the soil.~~
- (35) INFILTRATION SYSTEM means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.
- (36) KARST FEATURE means an area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets.
- (37) LAND DISTURBING CONSTRUCTION ACTIVITY (or “disturbance”) means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into

waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, and soil stockpiling.

- (38) LAND DEVELOPMENT ACTIVITY means any activity that changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This term does not include agricultural cropping activities.
- (39) MAINTENANCE AGREEMENT means a legal document that is filed with the County Register of Deeds as a property deed restriction and which provides for long-term maintenance of storm water management practices.
- (40) MAXIMUM EXTENT PRACTICABLE or “MEP” means the highest level of performance that is achievable but is not equivalent to a performance standard identified in this ordinance ~~a level of implementing best management practices in order to achieve a performance standard specified in this ordinance~~ which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions. ~~means the highest level of performance that is achievable but is not equivalent to a performance standard identified in this ordinance as determined in accordance with S. 30.06(7)(#) of this ordinance.~~
- (41) NATURAL WETLANDS means an area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions. These wetlands include existing, mitigation and restored wetlands
- (42) NEW DEVELOPMENT means that portion of a post-construction site where impervious surfaces are being created or expanded. Any disturbance where the amount of impervious area for the post-development condition is greater than the pre-development condition is classified as new development. For purposes of this ordinance, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate. ~~means development resulting from the conversion of previously undeveloped land or agricultural land uses.~~
- (43) NON-STORM WATER DISCHARGE means a discharge to the storm sewer system created by some process other than the runoff from precipitation.
- (44) NON-STRUCTURAL MEASURE means a practice, technique, or measure to reduce the volume, peak flow rate, or pollutants in storm water that does not require the design or installation of fixed storm water management facilities.

- (45) OFF-SITE means lands located outside the property boundary described in the permit application for land development activity.
- (46) ON-SITE means lands located within the property boundary described in the permit application for land development activity.
- (47) **ORDINARY HIGH-WATER MARK** **has the meaning given in s. NR 115.03(6), Wis. Adm. Code.**
- (48) OTHER THAN RESIDENTIAL DEVELOPMENT means development of the following land uses: commercial, industrial, government and institutional, recreation, transportation, communication, and utilities.
- (49) **OUTSTANDING RESOUC E WATERS** **means waters listed in s. NR 102.10, Wis. Adm. Code.**
- (50) PEAK FLOW DISCHARGE RATE means the maximum rate at which a unit volume of storm water is discharged.
- (51) PERFORMANCE SECURITY means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the City of Green Bay by the permit holder to assure that requirements of the ordinance are carried out in compliance with the storm water management plan.
- (52) **PERFORMANCE STANDARD** **means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.**
- (53) PERMIT means a written authorization made by the City of Green Bay to the applicant to conduct land development activities **disturbing construction activity or to discharge post-construction runoff to waters of the state.**
- (54) PERMIT ADMINISTRATION FEE means a sum of money paid to the City of Green Bay by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.
- (55) PERVIOUS SURFACE means ~~a surface that allows infiltration of precipitation or surface flow. Lawns, fields and woodlands are examples of pervious surfaces.~~ **an area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or other similar vegetated areas are examples of surfaces that typically are pervious.**
- (56) **POLLUTANT** **has the meaning given in s. 283.01(13), Wis. Stats.**
- (57) **POLLUTION** **has the meaning given in s. 281.01(40), Wis. Stats.**

- (58) **POST-CONSTRUCTION SITE** means a construction site following the **completion of land disturbing construction activity and final site stabilization.**
- (59) **POST-CONSTRUCTION STORM WATER DISCHARGE** means any storm water discharged from a site following the completion of land disturbing construction activity and final site stabilization.
- (60) **POST-DEVELOPMENT LAND USE CONDITION** means the extent and distribution of land cover types, anticipated to occur under conditions of full development that will influence precipitation runoff and infiltration (see also future proposed land use condition).
- (61) **PRE-DEVELOPMENT LAND USE CONDITION** means land which has runoff characteristics equivalent to runoff Curve Numbers (CNs) of: 30, 58, 71, and 78 for Hydrologic Soil Groups A, B, C, and D, respectively, or Runoff Coefficients 0.10, 0.13, 0.17, 0.21 for Hydrologic Soil Groups A, B, C, and D, respectively, if the Rational Method is being used. This term is used for the purpose of matching of pre- and post-development storm water peak flows and volumes as required by this ordinance, §30.06(2) (see also existing land-use condition). ~~means the extent and distribution of land cover types present before the initiation of land disturbing construction activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.~~
- (62) **PRE-TREATMENT** means the treatment of storm water prior to its discharge to wetlands, infiltration practices or the primary storm water treatment practice in order to reduce pollutant loads to a level compatible with the capability of the primary practice.
- (63) **PREVENTATIVE ACTION LIMIT** ~~has the meaning given in s. NR 140.05(17),~~ **Wis. Adm. Code.**
- (64) **PROTECTIVE AREA** means an area of land that commences at the top of **the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface.**
- (65) **PUBLIC DRAINAGE SYSTEM** means all facilities owned and operated by the City of Green Bay, Brown County or the Wisconsin Department of Transportation for the purpose of collecting, conveying, storing, treating and properly disposing of storm water runoff.

- (66) REDEVELOPMENT means areas where development is replacing older development.
- (67) RESIDENTIAL LAND DEVELOPMENT means that which is created to house people, including the residential dwellings as well as all affected portions of the development, including lawns, driveways, sidewalks, garages, and access streets. This type of development includes single family, multi-family, apartments, and trailer parks.
- (68) RESPONSIBLE PARTY means any entity holding fee title to the property or other person contracted or obligated by other agreement to implement and maintain post-construction storm water BMPs.
- (69) ROUTINE MAINTENANCE means that portion of a post-construction site where pre-development impervious surfaces are being maintained to preserve the original line and grade, hydraulic capacity, drainage pattern, configuration, or purpose of the facility. Remodeling of buildings and resurfacing of parking lots, streets, driveways, and sidewalks are examples of routine maintenance, provided the lower ½ of the impervious surface's granular base is not disturbed. The disturbance shall be classified as redevelopment if the lower ½ of the granular base associated with the pre-development impervious surface is disturbed or if the soil located beneath the impervious surface is exposed. For purposes of this ordinance, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.
- (70) RUNOFF means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.
- (71) SEPARATE STORM SEWER means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:
- (a) Is designed or used for collecting water or conveying runoff.
 - (b) Is not part of a combined sewer system.
 - (c) Is not draining to a storm water treatment device or system.
 - (d) **Is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.**
 - (e) Discharges directly or indirectly to waters of the State or U.S.

- (72) SITE means the entire area included in the legal description of the land on which the land disturbing construction activity occurred.
- (73) SITE RESTRICTION means any physical characteristic that limits the use of a storm water best management practice.
- (74) STOP WORK ORDER means an order issued by the City of Green Bay that requires that all construction activity on the site be stopped.
- (75) STORM WATER CONVEYANCE SYSTEM means any method employed to carry storm water runoff from a development to waters of the state. Examples of methods include swales, channels, and storm sewers.
- (76) STORM WATER MANAGEMENT PLAN means a document **comprehensive plan** that identifies **and designs** what actions will be taken to reduce storm water quantity and pollutant loadings from the post-development land use condition to levels meeting the requirements of this ordinance. ~~means a comprehensive plan designed to reduce the discharge of pollutants from storm water, after the site has undergone final stabilization, following completion of the construction activity.~~
- (77) STORM WATER MANAGEMENT SYSTEM PLAN is a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.
- (78) STORM WATER RUNOFF means that portion of precipitation that does not soak into the soil and flows off the surface of the land and into the natural or artificial conveyance network.
- (79) STORM WATER MANAGEMENT MEASURE means structural or non-structural practices that are designed to reduce storm water runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.
- (80) TECHNICAL STANDARD means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.
- (81) TOP OF THE CHANNEL means an edge, or point on the landscape, landward from the ordinary high-water mark of a surface water of the state, where the slope of the land begins to be less than 12% continually for at least 50 feet. If the slope of the land is 12% or less continually for the initial 50 feet, landward from the ordinary high-water mark, the top of the channel is the ordinary high-water mark.

- (82) TR-55 means the United States Department of Agriculture, Natural Resources Conservation Service (previously Soil Conservation Service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986.
- (83) TRANSPORTATION FACILITY means ~~a public street, a public road, a public highway, a public mass transit facility, a public-use airport, a public trail, or any other public work for transportation purposes such as harbor improvements under s. 85.095(1)(b), Stats.~~ **highway, a railroad, a public mass transit facility, a public-use airport, a public trail or any other public work for transportation purposes such as harbor improvements under s. 85.095(1)(b), Wis. Stats. “Transportation facility” does not include building sites for the construction of public buildings and buildings that are places of employment that are regulated by the Department pursuant to s. 281.33 Wis. Stats.**
- (84) TYPE II DISTRIBUTION means a rainfall type curve as established in the “United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973”. The Type II curve is applicable to all of Wisconsin and represents the most intense storm pattern.
- (85) URBAN EXPANSION DISTRICT means those areas of the City which are located on the fringe of the Urban Service District and are already partially served and/or fully served with minimal additional facilities expansion and is delineated on the City Development District map approved by ordinance dated December, 1990.
- (86) URBAN RESERVE DISTRICT means those areas of the City in which land divisions are not allowed due to their distance from the urbanized and serviced areas of the City and is delineated on the City Development District map approved by ordinance dated December, 1990.
- (87) URBAN SERVICE DISTRICT means those areas of the City in which infilling is encouraged because they are already fully serviced by urban facilities, are within one mile of an existing neighborhood park, and are within the City’s developable areas as designated in the Comprehensive Plan, and is delineated on the City Development District map approved by ordinance dated December, 1990.
- (88) WATERS OF THE STATE ~~means any channel, ditch, stream, lake, or other body of water determined to be under State of Wisconsin authority under Ch. 142, Wis. Stat.~~ **has the meaning given in s. 281.01(18), Wis. Stats.**
- (89) WPDES means Wisconsin Pollutant Discharge Elimination System.
- (90) WPDES STORM WATER PERMIT means a permit issued by the Wisconsin Department of Natural Resources under §147.021, Wis. Stats., that authorizes

the point source discharge of storm water to waters of the state and is regulated by Ch. NR 216 (Storm Water Discharge Permit), Wis. Admin. Code.

30.05 **APPLICABILITY AND JURISDICTION.**

(1) **APPLICABILITY.** This ordinance applies to land development, **land disturbance or land disturbing construction** activities that meet the applicability criteria specified in this section. The ordinance also applies to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development or sale that meets the following applicability criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules.

(a) Residential land development with a gross aggregate area of 1 acre or more;

(b) Residential land development with a gross aggregate area less than 1 acre, if there are at least 0.25 acres of impervious surfaces;

(c) Land development, other than a residential land development, with a gross aggregate area of 0.5 acres or more; or

(d) In the opinion of the City of Green Bay is likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

(2) **JURISDICTION.** This ordinance applies to land development, **land disturbance or land disturbing construction** activities within the boundaries of the City of Green Bay.

(3) **EXCLUSIONS.** This ordinance is not applicable to activities conducted by a state agency, as defined under s. 227.01 (1), Wis. Stats., ~~but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under s. 281.33 (2), Wis. Stats.~~

(4) **WAIVERS.** Requests to waive the storm water management plan requirements shall be submitted to the Director of Public Works for approval. Waivers may be granted if it can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this ordinance.

30.06 **STORM WATER MANAGEMENT PERFORMANCE STANDARDS.**

- (1) **RESPONSIBLE PARTY.** The landowner or the post-construction site or other person contracted or obligated by other agreement with the landowner to implement and maintain post-construction storm water BMPs is the responsible party and shall comply with this ordinance.
- (2) **STORM WATER MANAGEMENT PLAN** ~~RESPONSIBLE PARTY.~~ The responsible party shall develop and implement a written post-construction storm water management plan that incorporates the requirements of this section.
- (3) **DEVELOPMENT DISTRICTS.** All land development activities shall conform to storm water management standards established for the Development District within which the development occurs.
- (4) **MAINTENANCE OF EFFORT.** For redevelopment sites where the redevelopment will be replacing older development that was subject to post-construction performance standards of NR 151 in effect on or after October 1, 2004, the responsible party shall meet the total suspended solids reduction, peak flow control, infiltration, and protective areas standards applicable to the older development or meet the redevelopment standards of ss. NR 151.122 to 151.125, or the City of Green Bay storm water standards, whichever is more stringent.
- (5) **STORM WATER DISCHARGE QUANTITY.** Unless otherwise provided for in this ordinance, all land development activities subject to this ordinance shall establish on-site management practices to control the peak flow rates of storm water discharged from the site as described in this ordinance. The amount of peak discharge control previously required for the site shall not be reduced as a result of the proposed development or land disturbance. Infiltration of storm water runoff shall be in accordance with NR 151 and WDNR Technical Standards.
 - (a) On-site management practices shall be used to meet the minimum performance standards for each Development District as described in §§30.06(5)(a)1, 30.06(5)(a)2, or 30.06(5)(a)3, whichever one applies.
 1. All developments less than 5 acres in size in the Urban Service District shall not increase peak flow rates of storm water runoff from that which would have resulted from the same storm occurring over the site with the land in its existing land use conditions for design rainfall events with recurrence intervals of 2, 10, and 100 years. The Director of Public Works may require more stringent or less stringent criteria if it has been determined that the downstream storm sewers can or cannot handle the runoff from the site.

2. All developments 5 acres or more in the Urban Service District shall be subject to the criteria described in §30.06(5)(a)3. The Director of Public Works may require more stringent or less stringent criteria if it has been determined that the downstream storm sewers can or cannot handle the runoff from the site.
 3. All proposed land developments in the Urban Reserve and Urban Expansion Districts shall not increase peak flow rates of storm water runoff from that which would have resulted from the same storm occurring over the site with the land in its pre-development land use conditions for design rainfall events with recurrence intervals of 2, 10, and 100 years. The Director of Public Works may require more stringent or less stringent criteria if it has been determined that the downstream storm sewers can or cannot handle the runoff from the site.
- (b) All storm water conveyance systems within the proposed development of all Development Districts and receiving surface runoff from the proposed development shall be designed to completely contain peak storm flows as described in §§30.06(2)(b)1 and 2. Calculations for determining peak flows for conveyance system sizing shall be based on the existing or future proposed land use conditions for off-site areas (whichever results in the highest peak flows), and the future proposed land use conditions for the on-site areas.
1. For publicly-owned or maintained open channel conveyance systems, the peak flow from the 25-year storm shall be completely contained within the channel bottom and banks.
 2. For publicly-owned or maintained storm sewer pipes, the peak flow from the 10-year storm shall be completely contained within the pipes with no surcharging or pressurized flow.
 3. Private storm sewer pipes shall be constructed to contain the peak flow from the 5-year storm with no surcharging or pressurized flow.
- (c) Determination of peak flow rates and volume of runoff for purposes of meeting the requirements of §§30.06(5)(a) and (b) shall be computed by

procedures based on the principals and procedures approved by the Director of Public Works ~~and that are described in the City's Storm water Management Users Guide.~~

(d) The amount of peak discharge control previously required for the site shall not be reduced as a result of the proposed development or disturbance.

(e) An adequate outfall shall be provided for each point of concentrated discharge from the post-construction site. An adequate outfall consists of non-erosive discharge velocities and reasonable downstream conveyance.

~~(f) More stringent discharge limits may be required at the discretion of the Director of Public Works for reasons such as, but not limited to, insufficient downstream system capacity, potential erosion of stream channels, or impacts on flood stages.~~

(f) All discharges will be restricted to public drainage systems (including storm sewers and ditches) or to waters of the State or U.S. It shall be the responsibility of the applicant to obtain from adjacent property owners any easements or other necessary property interests concerning flowage of water from the proposed development onto private lands.

(g) Increases or decreases in the hydrology of natural wetlands shall be minimized to the extent practical. Where such changes are proposed, the impact of the proposal on wetland shall be assessed and meet the requirements of NR 103, Wis. Admin. Code.

(h) Emergency overland flow for all storm water facilities shall be provided to

prevent exceeding the safe capacity of downstream drainage facilities and
prevent endangerment of downstream property or public safety.

(6) STORM WATER DISCHARGE QUALITY. Unless otherwise provided for in this ordinance, all land development activities subject to this ordinance shall establish on-site management practices to control the quality of storm water discharged from the site. The amount of total suspended solids control previously required for the site shall not be reduced as a result of the proposed development or land disturbance. On-site management practices shall be used to meet the following minimum standard established for each Development District:

(a) Storm water management measures in the Urban Expansion and Urban

Reserve Districts shall be designed to remove on an average annual basis a minimum of 80% of the total suspended solids load from the proposed on-site development when compared to the proposed on-site development without storm water management measures. The effectiveness of the storm water management measures shall be evaluated using criteria provided by the Director of Public Works ~~in the City's Storm water Management Users Guide.~~

(b) Storm water management measures in the Urban Service Districts less than 5 acres shall be designed to remove on an average annual basis a minimum total suspended solids load of 40% for redevelopment sites and a minimum of 80% for new development from the proposed on-site development when compared to the proposed on-site development without storm water management measures. The effectiveness of the storm water management measures shall be evaluated using criteria provided by the Director of Public Works ~~in the City's Storm water Management Users Guide.~~

(c) The Director of Public Works may require storm water management measures in the Urban Service Districts for developments 5 acres or greater to be designed to remove on an average annual basis a minimum of 80% of the total suspended solids load from the proposed on-site development when compared to the proposed on-site development without storm water management measures. The effectiveness of the storm water management measures shall be evaluated using criteria provided by the Director of Public Works ~~in the City's Storm water Management Users Guide.~~

- (d) Discharge of urban storm water pollutants to natural wetlands shall have pre-treatment and vegetative buffers ~~as specified in the City's Storm water Management Users Guide (ALL REFERENCE TO THE USERS GUIDE SHALL BE ELIMINATED)~~, unless otherwise exempted by the Director of Public Works.
- (e) Infiltration of storm water runoff shall be in accordance with NR 151 and WDNR Technical Standards. When infiltration basins, bio-filtration or bio-infiltration basins or other such practices are proposed as a BMP for the site, a soils investigation following WDNR Technical Standard 1002 shall be prepared.
- (f) Storm water discharges shall have pre-treatment prior to infiltration to prolong maintenance of the infiltration practice and to prevent discharge of storm water pollutants at concentrations that will result in exceedance of groundwater preventive action limits or enforcement standards established by the Department of Natural Resources in NR 140, Wis. Admin. Code. Storm water infiltration is prohibited under the following circumstances:
1. Storm water generated from highly contaminated source areas at manufacturing industrial sites;
 2. Storm water carried in a conveyance system that also carries contaminated, non-storm water discharges; or
 3. Storm water generated from active construction sites.
- (g) Petroleum products in runoff from gas pump areas and vehicle maintenance areas shall be controlled with a properly designed and maintained oil and grease separator, or other equivalent practice. The structure or practice shall remove all visible sheen from the runoff prior to discharge to waters of the State, [U.S.](#), or the City's storm sewer system. A combination of the following BMPs or others may be used, maintained with appropriate documentation: canopies, oil and grease separator, petroleum spill clean-up materials, or any other structural or non-structural method of preventing or treating petroleum in runoff.

(h) Storm water ponds and infiltration devices shall not be located closer to water supply wells than indicated below without first notifying the Director of Public Works.

1. 100 feet from a private or a transient non-public water supply well;

2. 1,200 feet from a municipal water supply well; or

3. The boundary of a recharge area to a well identified in a wellhead area protection plan.

(i) The amount of total suspended solids control previously required for the site shall not be reduced as a result of the proposed development or disturbance.

(j) Pollutant loading models such as SLAMM, P8 or equivalent methodology shall be used to evaluate the efficiency of the design in reducing total suspended solids.

(k) If the design cannot achieve the applicable total suspended solids reduction specified, the storm water management plan shall include a written and site-specific explanation why that level of reduction is not attained and the total suspended solids load shall be reduced to the maximum extent practicable.

(l) More or less stringent treatment limits may be required at the discretion of the Director of Public Works

(m) **Maximum extent practicable applies when a person who is subject to a performance standard of this ordinance demonstrates to the City of Green Bay's satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making this assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the responsible party shall take into account the best available technology, cost effectiveness, geographic features, and other competing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.**

(7) TECHNICAL STANDARDS. The following methods shall be used in designing and maintaining the water quality, peak discharges **and** infiltration, protective area, and fueling / vehicle maintenance components of storm water practices needed to meet the water quality standards of this ordinance:

- (a) Consistent with the technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code, and as modified herein.

1. Interior pond slopes shall be 4:1,
2. Top of berm 10 foot wide unless analysis is shown that a lesser width is acceptable to withstand saturated soil pressure,

- (b) ~~Technical standards and guidance identified within the City of Green Bay's Storm Water Reference Guide.~~

- (b) Where technical standards have not been identified or developed by the Wisconsin Department of Natural Resources, other technical standards may be used provided that the methods have been approved by the City of Green Bay.

- (8) PROTECTIVE AREAS. Storm water runoff through and around Protective Area shall be in conformance with NR 151.

- (a) ~~—"Protective area" means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in In this section paragraph, "protective area" does not include any area of land adjacent to any stream enclosed within a pipe or culvert, so such that runoff cannot enter the enclosure at this location.~~

1. For outstanding resource waters and exceptional resource waters, ~~and for wetlands in areas of special natural resource interest as specified in s. NR 103.04,~~ 75 feet.
2. For perennial and intermittent streams identified on a United States geological survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, 50 feet.
3. For lakes, 50 feet.
4. For highly susceptible wetlands, 75 ~~50~~ feet. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins.

5. For less susceptible wetlands, 10 percent of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass, **cultivated hydric soils; and any gravel pits, or dredged materials or fill material disposal sites that take on the attributes of a wetland.**

6. For wetlands not subject to par. 4 or 5, 50 feet

7. In subd. (a)1., **4 and 5** and ~~6~~, determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in NR 103.03.

8. For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.

(b) Wetland boundary delineation shall be made in accordance with current Wisconsin Department of Natural Resources procedures. This paragraph does not apply to wetlands that have been completely filled in compliance with all applicable State and Federal regulations. The protective area for wetlands that have been partially filled in compliance with all applicable State and Federal regulations shall be measured from the wetland boundary delineation after a fill has been placed. Where there is a legally authorized wetland fill, the protective area standard need not be met in that location.

~~(b). Wetlands shall be delineated. Wetland boundary delineations shall be made in accordance with NR 103.08(1m). This paragraph (6) does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.~~

(c) **Section** This paragraph (6) applies to post-construction sites located within a protective area, except those areas exempted pursuant to subd. (f) below.

(d) The following requirements shall be met:

1. Impervious surfaces shall be kept out of the protective area **entirely or** to the maximum extent practicable. The storm water management plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction. **If there is no practical alternative to locating an impervious surface in the protective area,**

the storm water management plan shall contain a written, site-specific explanation.

2. Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of 70% or greater shall be established and maintained **where no impervious surface is present**. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.
 3. Best management practices such as filter strips, swales, or wet detention basins, that are designed to control pollutants from non-point sources may be located in the protective area.
- (e). A protective area established or created after the adoption date [July 19, 2016] of this ordinance shall not be eliminated or reduced, except as allowed in subd. (f) 3, 4, or 5 below.
- (f). Exemptions. The following areas are not required to meet the protective area requirements of Section (6):
1. Redevelopment and routine maintenance areas provided the minimum requirements within in subd. (e) above are satisfied.
 2. **In-fill development areas less than 5 acres.**
 3. Structures that cross or access surface waters such as boat landings, bridges and culverts.
 4. Structures constructed in accordance with s. 59.692(4v), Wis. Stats.
 5. **Areas of** post-construction sites from which runoff does not enter the surface water, **including wetlands, without first being treated by a BMP to meet the local ordinance requirements for total suspended solids and peak flow reduction,** except to the extent that vegetative ground cover is necessary to maintain bank stability.

(9) GENERAL CONSIDERATIONS FOR STORM WATER MANAGEMENT MEASURES. The following considerations shall be observed in on-site and off-site runoff management:

(a) Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section.

(b) Emergency overland flow for all storm water facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.

(10) BMP LOCATION.

(a) To comply with the performance standards required under §30.06 S. 07 of this ordinance, BMPs may be located on-site or off-site as part of a regional storm water device, practice or system, but shall be installed in accordance with s. NR 151.003, Wis. Adm. Code.

Note to Users: This section does not supersede any other applicable federal, state or local regulation such as ch. NR 103, Wis. Adm. Code and ch. 30, Wis. Stats.

(b) The administering authority may approve off-site management measures provided that all of the following conditions are met:

1. The administering authority determines that the post-construction runoff is covered by a storm water management system plan that is approved by the City of Green Bay and that contains management requirements consistent with the purpose and intent of this ordinance.

2. The off-site facility meets all of the following conditions:

a. The facility is in place.

b. The facility is designed and adequately sized to provide a level of storm water control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this ordinance.

c. The facility has a legally obligated entity responsible for its long-term operation and maintenance.

~~(c) Where a regional treatment option exists such that the administering authority exempts the applicant from all or part of the minimum on-site storm water management requirements, the applicant shall be required to pay a fee in an amount determined in negotiation with the administering authority]. In determining the fee for post-construction runoff, the administering authority~~

~~shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.~~

(11) EXCEPTIONS. The Director of Public Works may waive the minimum requirements for on-site storm water management practices established in §30.06(5) and (6) upon written request of the applicant in which a site-specific explanation as to why that level of reduction is not attained and the total solids load shall be reduced to the maximum extent practicable, and provided that at least one of the following conditions applies:

- (a) Alternative minimum requirements for on-site management of storm water discharges have been established in a storm water management plan that has been approved by the Director of Public Works and that is required to be implemented by local ordinance.
- (b) Provisions are made to manage storm water by an off-site facility. This requires that the off-site facility is in place, is designed and adequately sized to provide a level of storm water control that is equal to or greater than that which would be afforded by on-site practices meeting the requirements of this ordinance, and has a legally obligated entity responsible for long-term operation and maintenance of the storm water practice.
- (c) The Director of Public Works finds that meeting the minimum on-site management requirements is not technically feasible due to site restrictions.
- (d) This ordinance does not apply to redevelopment projects that result in no net increase in impervious area and does not have exposed parking lots or roads.

(12) ADDITIONAL REQUIREMENTS. The administering authority may establish storm water management requirements more stringent than those set forth in this ordinance if the administering authority determines that the requirements are needed to control storm water quantity or control flooding, due to but not limited to, insufficient downstream system capacity, potential erosion of stream channels, or impacts on flood stages, and to comply with federally approved total maximum daily load requirements, or control pollutants associated with existing development or redevelopment.

(13) FEE IN LIEU OF ON-SITE STORM WATER MANAGEMENT PRACTICES. Where the Director of Public Works waives all or part of the minimum on-site storm water management requirements under §30.06(11)(c), or where the waiver is based on the provision of adequate storm water facilities provided by the City of Green Bay downstream of the proposed development, as provided for under §30.06(11)(b), the applicant shall be required to pay a fee in an amount determined in negotiation with the City of Green Bay. In setting the fee for land

development projects, the City of Green Bay shall consider an equitable distribution of the cost of land, engineering design, and construction.

30.07 PERMITTING REQUIREMENT AND PROCEDURES AND FEES.

- (1) PERMIT REQUIRED. No landowner, land operator or responsible party may undertake a land disturbing or land development activity subject to this ordinance without receiving a permit from the Director of Public Works prior to commencing the proposed activity.
- (2) PERMIT APPLICATION AND FEE. Unless specifically excluded by this ordinance, any landowner operator or **responsible party** desiring a permit shall submit to the Director of Public Works a permit application made on a form provided by the City of Green Bay for that purpose.
 - (a) Unless otherwise exempted **or excluded** by this ordinance, a permit application must be accompanied by the following in order for the permit application to be considered by the Director of Public Works:
 1. a storm water management plan;
 2. a maintenance plan and a maintenance agreement;
 3. any easements which may be required;
 4. a copy of plans and specifications for all storm water facilities;
 5. certification by a professional engineer;
 6. any payment of a “fee-in-lieu”, as provided for under §30.06(13);
 7. a non-refundable permit administration fee; and
 8. performance securities, if applicable by §30.07(4).
 - (b) The storm water management plan shall be prepared to meet the requirements of §30.08 of this Chapter and the maintenance agreement shall be prepared to meet the requirements of §30.09 of this Chapter.
 - (c) Fees shall be those established by the Director of Public Works and billed to the applicant for actual expenses charged by the City or its consultant to review the storm water management plan. Fees may, from time to time, be reviewed and modified by resolution.
- (3) REVIEW AND APPROVAL OF PERMIT APPLICATION. The Director of Public Works shall review any permit application that is submitted with a storm water

management plan, maintenance agreement, and the required fee. The following approval procedure shall be used:

- (a) Within 30 business days of the receipt of a complete permit application, including all documents as required by §30.07(2)(a), the Director of Public Works shall inform the applicant whether the application, **storm water management** plan, maintenance agreement and easements are approved or disapproved **based on the requirements of this ordinance**. The Director of Public Works shall base the decision on requirements set forth in §§30.06, 30.08, and 30.09 of this Chapter.
- (b) If the storm water permit application, storm water management plan, maintenance agreements and easements are approved, **or if an agreed upon payment of fees in lieu of storm water management practices is made**, the Director of Public Works shall issue the permit.
- (c) If the storm water permit application, storm water management plan, maintenance agreements or easements are disapproved, **the City of Green Bay shall detail in writing the reasons for disapproval**. The applicant may revise the storm water management plan or agreement, or may appeal the decision to the Improvement and Service Committee as provided for in §30.11 of this Chapter.
- (d) If additional information is submitted, the Director of Public Works shall have 30 business days from the date the additional information is received to inform the applicant that the application, plan, maintenance agreement and easements are either approved or disapproved.
- (e) Failure by the Director of Public Works to inform the permit applicant of a decision within 30 business days of a required submittal shall be deemed disapproval of the submittal.

- (4) PRACTICE INSTALLATION AND MAINTENANCE PERFORMANCE SECURITY. The Director of Public Works may, at his/her discretion, require the submittal of a performance security prior to issuance of the permit in order to ensure that the storm water practices are installed and maintained by the permit holder as required by the storm water management plan. The Director of Public Works shall determine the amount of the performance security.

The performance security shall not exceed the total estimated construction cost of the storm water management practices approved under the permit, plus 15%.

The amount of the maintenance performance security shall be determined by the Director of Public Works not to exceed the maintenance costs estimated in the storm water plan for the period during which the permit holder has maintenance responsibility.

The performance security shall contain forfeiture provisions for failure to complete work specified in the storm water management plan. Conditions for the release of performance security are as follows:

- (a) The installation performance security shall be released in full only upon submission of “as-built plans” and written certification by a registered professional engineer in the State of Wisconsin that the storm water practice has been installed in accordance with the approved plan and other applicable provisions of this ordinance. The Director of Public Works may make provisions for a partial pro-rata release of the performance security based on the completion of various development stages.
- (b) The maintenance performance security, minus any costs incurred by the City of Green Bay to conduct required maintenance, shall be released at such time that the responsibility for practice maintenance is passed on to another private entity via an approved maintenance agreement or to the City of Green Bay.

- (5) PERMIT CONDITIONS REQUIREMENTS. All permits issued under this ordinance shall be subject to the following conditions, and holders of permits issued under this ordinance shall be deemed to have accepted these conditions. The Director of Public Works may suspend or revoke a permit for violation of a permit condition upon written notification to the permittee, land owner or responsible party. An action by the Director of Public Works to suspend or revoke this permit may be appealed in accordance with §30.11 of this Chapter.

- (a) Compliance with this permit does not relieve a permittee of the responsibility to comply with other applicable federal, state, and local laws and regulations.

- (b) A permittee, **land owner or responsible party** shall design, install, **inspect** and maintain all structural and non-structural storm water management measures in accordance with the approved storm water management plan, maintenance agreement, and this permit.
- (c) A ~~permit holder~~ **permittee, land owner or responsible party** shall notify the Director of Public Works at least 2 business days before commencing any work in conjunction with the storm water management plan and within 5 business days upon completion of the storm water management practices. If required as a special condition, the ~~permit holder~~ **permittee, land owner or responsible party** shall make additional notification according to a schedule set forth by the Director of Public Works so that practice installations can be inspected during construction.
- (d) Practice installations required as part of this ordinance shall be certified "as built" by a Wisconsin licensed professional engineer.
- (e) Completed storm water management practices must pass a final inspection to determine if they are in accordance with the approved storm water management plan and ordinance. The Director of Public Works must make the inspection, or other competent professionals identified by the Director of Public Works. The Director of Public Works shall notify a **permittee, land owner or responsible party** in writing of any changes required in such practices to bring them into compliance with the conditions of this permit. A **permittee, land owner or responsible party** is further required to submit a certificate of completion, stating the completion of the permitted work in accordance with the plans, City of Green Bay, state and federal requirements. The certificate must be signed by the permittee, the contractor and the design engineer.
- (f) A **permittee, land owner or responsible party** shall submit any proposed modifications to an approved storm water management plan in writing to the Director of Public Works at least 30 days prior to execution. The Director of Public Works may require that a proposed modification be submitted as an original permit application for approval prior to incorporation into the storm water management plan and execution.
- (g) A **permittee, land owner or responsible party** shall maintain all storm water management practices specified in the approved storm water management plan until the practices either become the responsibility of the City of Green Bay or are transferred to subsequent private owners as specified in the approved maintenance agreement.
- ~~(h) The Director of Public Works shall perform any work or operations necessary to bring storm water management measures into conformance with an approved storm water management plan, and all associated costs shall be~~

~~placed upon the tax roll as a special lien against the property or to charging such costs against the performance bond posted for the project. (See WDNR language below)~~

(h) The responsible party authorizes the Director of Public Works to perform any work or operations necessary to bring storm water management measures into conformance with the approved storm water management plan, and consents to a special assessment or charge against the property as authorized under subch. VII of ch. 66, Wis. Stats., or to charging such costs against the financial guarantee posted under §30.07(4).

(i) If so directed by the Director of Public Works, a **permittee, land owner or responsible party** shall repair, at the permittee's own expense, all damage to adjoining municipal facilities and drainage ways caused by storm water runoff where such damage is caused by activities that are not in compliance with the approved storm water management plan.

(j) A **permittee, land owner or responsible party** shall permit property access to the Director of Public Works for the purpose of inspecting the property for compliance with the approved storm water management plan and this permit.

(k) Where a storm water management plan involves **change in** direction of some or all runoff off of a site, **increases in peak rate and/or total volume of runoff from the site,** it shall be the responsibility of the permittee to obtain from adjacent property owners any easements or other necessary property interests concerning the **prevention of endangerment to property or public safety and** flowage of water per §30.06(5)~~(g)~~**(f)**. Issuance of this permit does not create or affect any such rights.

(l) A permittee holder is subject to the enforceable actions detailed in §30.10 of this ordinance if the permittee fails to comply with the terms of a permit.

(m) Additional requirements established

(n) The permit applicant shall post the "Certificate of Permit Coverage" in a conspicuous location at the construction site.

(6) PERMIT DURATION. Permits issued under this section shall be valid from the date of issuance through the date the Director of Public Works notifies the permittee that all storm water management practices have passed the final inspection or the permit is suspended or revoked pursuant to §30.10(6) of this Chapter.

30.08 **STORM WATER MANAGEMENT PLANS.**

(1) **PLAN REQUIREMENTS.** The storm water management plan required under §30.07 of this ordinance shall contain any such information the Director of Public Works may need to evaluate the environmental characteristics of the area affected by land development activity, the potential impacts of the proposed development upon the quality and quantity of storm water discharges, the potential impacts upon the area's water resources, and drainage utilities, and the effectiveness and acceptability of proposed storm water management measures in meeting the performance standards set forth in this ordinance. Unless specified otherwise by this ordinance, storm water management plans shall contain, at a minimum, the information described below:

(a) Name, address, e-mail address and telephone number for the following or their designees: landowner; developer; project engineer for practice design and certification; person(s) responsible for installation of storm water management practices; and person(s) responsible for maintenance of storm water management practices prior to the transfer, if any, of maintenance responsibility to another party.

(b) A proper legal description of the property proposed to be developed, referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat.

(c) A narrative describing the existing site conditions (soils, topography, land use, protective areas, and environmentally sensitive areas).

(d) A narrative describing the proposed development, including what is going to be developed and the phasing (construction schedule) of the development from initial ground breaking to final stabilization.

(e) Explanation of the provisions to preserve and use natural topography and land cover features to minimize changes in peak flow runoff rates and volumes to surface waters and wetlands

(f) Results of investigations of soils and groundwater required for the placement and design of storm water management measures.

(g) A discussion as to the analysis performed to achieve water quantity and quality standards, including a summary of results, the method of conveyance, assumptions made

(h) A discussion as to what short term and long term best management practices will be utilized during the course of construction and post-construction **including a complete construction/installation schedule.**

- (i) A statement that the selected BMP's are designed in accordance with WDNR Technical Standards. If they are not, a discussion as to how the design differs from the Technical Standard and the reason for the variance.
- (j) Are there special construction, installation and short-term / long-term maintenance items that need to be considered **for the life of each storm water management practice proposed**, if so, what are they **and at what frequency are these items to be addressed**.
- (k) Calculations and data to support the final results. **Hydrology and pollutant loading computations as needed to show compliance with performance standards. All major assumptions used in developing input parameters shall be clearly stated. The computations shall be made for each discharge point in the development, and the geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).**
- (l) Pre-development site map with property lines, disturbed limits, and drainage patterns, summary of impervious areas (parking lots, roof, sidewalk, etc) and pervious areas (lawns, ponds, swales, landscaping, etc).
- (m) **One or more site maps at a scale of not less than 1 inch equals 40 feet. The site maps shall show the following: site location and legal property description; predominant soil types and hydrologic soil groups; existing cover type and condition; topographic contours of the site at a scale not to exceed two (2) feet; topography and drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; watercourses that may affect or be affected by runoff from the site; flow path and direction for all storm water conveyance sections; watershed boundaries used in hydrology determinations to show compliance with performance standards; lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site; limits of the 100 year floodplain; location of wells and wellhead protection areas covering the project area and delineated pursuant to s. NR 811.16, Wis. Adm. Code.**
- (n) Post-development site map with property lines, disturbed limits, and drainage patterns.
 - 1. Total area of disturbed impervious surfaces within the site.
 - 2. Total area of new impervious surfaces within the site.
 - 3. Performance standards applicable to site.

4. Proposed best management practices.
 5. Groundwater, bedrock, and soil limitations.
 6. **One or more site maps at a scale of not less than 1 inch equals 40 feet showing the following: post-construction pervious areas including vegetative cover type and condition; impervious surfaces including all buildings, structures, and pavement; post-construction topographic contours of the site at a scale not to exceed two (2) feet; post-construction drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; locations and dimensions of drainage easements; locations of maintenance easements specified in the maintenance agreement; flow path and direction for all storm water conveyance sections; location and type of all storm water management conveyance and treatment practices, including the on-site and off-site tributary drainage area; location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way; watershed boundaries used in hydrology and pollutant loading calculations and any changes to lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site.**
- (o) Separation distances. Storm water management practices shall be adequately separated from wells to prevent contamination of drinking water. **Explanation of any restrictions on storm water management measures in the development area imposed by wellhead protection plans and ordinances.**
- (p) Plans, specifications, details, and cross-sections of the selected BMP's. **detailed drawings including, but not limited to, cross-sections and profiles of all permanent storm water conveyance and treatment practices.**
- (q) Cost estimates for the construction, operation, and maintenance of each storm water management practice.**
- (2) ALTERNATE REQUIREMENTS. The administering authority may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under §30.06(10) or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.
- (3) All site investigations, plans, designs, computations, and drawings shall be certified by a **State of Wisconsin** registered professional engineer in the State of

Wisconsin to be prepared in accordance with accepted engineering practice and in accordance with criteria set forth by the Director of Public Works.

- (4) EXCEPTIONS. The Director of Public Works may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under §30.06(3) of this Chapter.

30.09 **MAINTENANCE AGREEMENT.**

- (1) MAINTENANCE AGREEMENT REQUIRED. The maintenance agreement required for storm water management practices under §30.07(2) of this Chapter shall be an agreement between the City of Green Bay and the **permittee, land owner or responsible party**. The **maintenance** agreement shall be recorded as a property deed restriction ~~by the permit applicant~~ **with the County Register of Deeds** so that it is binding upon all subsequent owners of land served by the storm water management practices.
- (2) AGREEMENT PROVISIONS. The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan **required by §30.07(2)(a):**
- (a) Identification of the landowner, responsible party(s), or organization responsible for long term maintenance of the storm water management plan.
- (b) Identification of the storm water facilities and designation of the drainage area served by the facilities.**
- ~~(c) Identification of the responsible party(s), organization or city, county, town or village responsible for long term maintenance of the storm water management practices identified in the storm water management plan required under S. 08 (2).~~
- (c) **Identification of the responsible party(s) or organization responsible for long term maintenance of the** ~~The landowner, responsible party(s) or organization shall maintain storm water management practices in accordance with the storm water practice maintenance provisions contained in the approved storm water management plan submitted under §30.07(2) of this Chapter.~~
- ~~(d) Requirement that the responsible party(s), organization, or city, county, town or village shall maintain storm water management practices in accordance with the schedule included in par. (b).~~
- (d) A schedule of regular maintenance of each facility or aspect of the storm water management system consistent with the storm water management plan.

- ~~(b) A schedule for regular maintenance of each aspect of the storm water management system consistent with the storm water management plan required under S. 08 (2).~~
- (e) The Director of Public Works is authorized to access the property to conduct inspections of storm water practices as necessary to ascertain that the practices are being maintained and operated in accordance with the approved storm water management plan **and maintenance agreement.**
- ~~(e) Authorization for the [administering authority] to access the property to conduct inspections of storm water management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.~~
- (f) The Director of Public Works shall maintain public records of the results of the site inspections, shall inform the landowner responsible for maintenance of the inspection results, and shall specifically indicate any corrective actions required to bring the storm water management practice into proper working condition and a reasonable time frame during which the corrective action must be taken.
- ~~(f) A requirement on the [administering authority] to maintain public records of the results of the site inspections, to inform the responsible party responsible for maintenance of the inspection results, and to specifically indicate any corrective actions required to bring the storm water management practice into proper working condition.~~
- ~~(g) Agreement that the party designated under par. (c), as responsible for long term maintenance of the storm water management practices, shall be notified by the [administering authority] of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the [administering authority].~~
- (g) The Director of Public Works is authorized to perform the corrected actions identified in the inspection report if the landowner does not make the required corrections in the specified time period. The City of Green Bay shall assess the landowner for the cost of such work and shall place a lien on the property, which may be collected as ordinary taxes by the City of Green Bay.
- ~~(h) Authorization of the [administering authority] to perform the corrected actions identified in the inspection report if the responsible party designated under par. (c) does not make the required corrections in the specified time period. The [administering authority] shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to subch. VII of ch. 66, Wis. Stats.~~

- (3) **TERMINATION OF AGREEMENT.** The maintenance agreement shall be terminated at such time that responsibility for maintenance of the storm water management practice is legally transferred to the City of Green Bay or agency acceptable to the City of Green Bay, through a written, binding agreement. The termination date of the maintenance agreement required under §30.09(1) shall be the date upon which the legal transfer of maintenance responsibility to the City of Green Bay or agency is made effective.

30.10 **ENFORCEMENT AND PENALTIES.**

- (1) Any land development activity initiated after the effective date of this ordinance by any person, firm, association, or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with said provisions.
- (2) The Director of Public Works may issue a citation or a Notice of Violation **of any non-complying land disturbing construction activity or post-construction runoff** in order to correct any violation of this ordinance. A Notice or Violation shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action that may be taken.
- ~~(2) The [administering authority] shall notify the responsible party by certified mail of any non-complying land disturbing construction activity or post-construction runoff. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action which may be taken.~~
- (3) Upon receipt of written notification from the Director of Public Works, a **permittee, land owner or responsible party** shall correct work that does not comply with the storm water management plan or other provisions of the permit within 30 days ~~or a~~ **A permittee, land owner or responsible party** shall make corrections as necessary to meet the specifications and schedule set forth by the Director of Public Works in the notice.
- (4) If the violations to a permit issued pursuant to this ordinance are likely to result in damage to properties, public facilities, or waters of the state, the City of Green Bay may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the City of Green Bay plus interest and legal costs shall be billed to the responsible party.
- (5) The Director of Public Works may issue ~~post~~ a stop work order on any land development **or land disturbing** activity in violation of this ordinance, **or to request the City Attorney to obtain a cease and desist order in any court with jurisdiction.**

- (6) The Director of Public Works may suspend or revoke a permit issued under this ordinance for noncompliance with these ordinance provisions.
- (7) Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the Director of Public Works or by a court of competent jurisdiction.
- (8) **The Director of Public Works is authorized to refer any violation of this ordinance, or a stop work order or cease and desist order issued pursuant to this ordinance, to the City Attorney for the commencement of further legal proceedings in any court with jurisdiction.**
- (9) Any person, firm, association, or corporation who does not comply with any provision of this ordinance or order issued hereunder shall be subject to a forfeiture of not less than \$50 nor more than \$500 per offense, together with the costs of prosecution. Each day that a violation exists shall constitute a separate offense.
- (10) When the Director of Public Works determines that a permittee has failed to follow practices set forth in the storm water management plan submitted and approved pursuant to §30.07 of this ordinance, or has failed to comply with schedules set forth in said storm water management plan, the Director of Public Works or a party designated by the Director of Public Works may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The Director of Public Works shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any performance or maintenance bond posted pursuant to Sec. §30.07(4) of this ordinance. Where such a bond has not been established, or where such a bond is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon for the year in which the work is completed.
- ~~(11) When the [administering authority] determines that the holder of a permit issued pursuant to this ordinance has failed to follow practices set forth in the storm water management plan, or has failed to comply with schedules set forth in said storm water management plan, the [administering authority] or a party designated by the [administering authority] may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved storm water management plan. The [administering authority] shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any financial security posted pursuant to S. 11 of this ordinance. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a~~

~~special charge against the property and collected with any other taxes levied thereon for the year in which the work is completed.~~

- (11) Compliance with the provisions of this ordinance may also be enforced by injunction in any court with jurisdiction pursuant to s. 62.23(8) Wis. Stats. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.
- (12) Nothing in this ordinance shall limit or exclude the City from taking any other action under any City municipal code, state statute, or other remedy allowed by law.

30.11 **APPEALS.**

- (1) IMPROVEMENT AND SERVICE COMMITTEE. The Improvement and Service Committee shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Director of Public Works in administering this ordinance. **The Improvement and Service Committee shall also use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals. Upon appeal, the board Improvement and Service Committee may authorize variances from the provisions of this ordinance that are not contrary to the public interest, and where owing to special conditions a literal enforcement of the ordinance will result in unnecessary hardship.**
- (2) WHO MAY APPEAL. Any officer, department, board or bureau of the City of Green Bay, or any aggrieved person affected by any decision of the Director of Public Works may appeal to the Improvement and Service Committee.
- (3) TIME FOR APPEAL. An appeal to the Improvement and Service Committee pursuant to §30.11(1) must be commenced by filing a written Notice of Appeal within 30 days of the order, decision or determination made by the Director of Public Works and to be reviewed.

30.12 **SEVERABILITY.** If any section, clause, provision or portion of this ordinance is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall remain in force and not be affected by such judgment.

30.20 **STORM WATER UTILITY.** (Cr. GO 6-04)

(1) **FINDINGS.**

- (a) The City of Green Bay finds that the management of storm water and other surface water discharges within and beyond its borders is a matter that affects the public health, safety and welfare of the City, its citizens and businesses and others in the surrounding area. The development of land

increases impervious surfaces and results in increased storm water runoff. Failure to effectively manage this increased storm water runoff affects the sanitary sewer utility operations of the Green Bay Sanitary District by, among other things, increasing the likelihood of infiltration and inflow in the sanitary sewer. In addition, surface water runoff may create erosion of lands, threaten businesses and residences with water damage and create sedimentation and other environmental damage in the City.

- (b) The cost of operating and maintaining the City storm water system, ensuring regulatory compliance and financing necessary plans, studies, repairs, replacements, improvements and extension thereof should, to the extent practicable, be allocated in relationship to the benefits enjoyed and services received therefrom.

(2) ESTABLISHMENT OF STORM WATER UTILITY.

- (a) In order to protect the health, safety and welfare of the public, the Common Council is exercising its authority to establish the City of Green Bay Storm water Utility and set the rates for storm water services.
- (b) The operation of the Storm water Utility shall be under the supervision of the City of Green Bay Improvement and Services Committee, with final authority by the Green Bay Common Council. The Administrator will be in charge of the Storm water Utility.
- (c) The City is acting under the authority of Chapters 62 and 66 of the Wisconsin Statutes, and particularly, without limitation, the following sections: §§ 62.04, 62.11, 62.16(2), 62.18, 66.0621, 66.0627, 66.0701, 66.0703, 66.0809, 66.0811, 66.0813 and 66.0821, Wisconsin Statutes.

(3) POWERS AND DUTIES OF UTILITY.

- (a) Facilities. The City, acting through the Storm water Utility, may acquire, construct, lease, own, operate, maintain, extend, expand, replace, clean, dredge, repair, conduct, manage and finance such facilities as are deemed by the City to be proper and reasonably necessary for a system of storm and surface water management. These facilities may include, without limitation by enumeration, surface and underground drainage facilities, sewers, watercourses, retaining walls and ponds and such other facilities as will support a storm water system.
- (b) Rates and Charges. The City, acting through the Storm water Utility, may establish such rates and charges as are necessary to finance planning,

design construction, maintenance and operation of the facilities in accordance with the procedures set forth in this ordinance.

- (c) Budgeting Process. The City, through the Storm water Utility, shall prepare an annual budget, which is to include all operation and maintenance costs, debt service and other costs related to the operation of the Storm water Utility. The costs shall be spread over the rate classifications as determined by the Board.
- (d) Excess Revenues. The City will retain any excess of revenues over expenditures in a year in a segregated Storm water Enterprise Fund, which shall be used exclusively for purposes consistent with this ordinance.

(4) DEFINITIONS.

- (a) Administrator. The Director of Public Works or his designee.
- (b) Board. The City of Green Bay Improvement and Services Committee.
- (c) Equivalent Runoff Unit or ERU. The unit by which a storm sewer charge is calculated in this ordinance and is based on an average horizontal impervious area of a fully developed single family parcel within the City. An ERU is established as 3,000 square feet.
- (d) Impervious Area or Impervious Surface. A horizontal surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by rainwater. It includes, but is not limited to, semi-impervious surfaces such as compacted clay and/or gravel, as well as streets, roofs, sidewalks, parking lots, driveways and other similar surfaces.
- (e) Duplex Unit. A residential space containing two dwelling units.
- (f) Dwelling Unit. A structure, or that part of a structure, which is used or intended to be used as a home, residence or sleeping place by one person or by two or more persons maintaining a common household, to the exclusion of all others.
- (g) GBMC. Green Bay Municipal Code.
- (h) Lot. A parcel of land having a width and depth sufficient for one principal building and its accessory building together with open spaces required by the City of Green Bay zoning ordinance and abutting a public street or access easement.

- (i) Multifamily Unit. A residential space consisting of three or more dwelling units.
- (j) Non-residential Property. Any developed lot or parcel other than residential property as defined herein, including, but not limited to, transient rentals (such as hotels and motels), mobile home parks, commercial, industrial, institutional, governmental property and parking lots.
- (k) Residential Property. Any lot or parcel developed exclusively for residential purposes, including single family homes, duplex units and multifamily units, but not including transient rentals (such as hotels and motels) and mobile home parks.
- (l) Single Family Home. Any residential property consisting of a single dwelling unit.
- (m) Storm water System. Any natural or manmade storm water conveyance facility operated or maintained by the City, including, but not limited to, retention/detention ponds, ditches, storm sewer, roads and navigable and non-navigable waterways.
- (n) Undeveloped Property. Property that has not been altered by the addition of any improvements, such as a building, structure, change of grade or substantial landscaping. Undeveloped property includes agricultural property. A property shall be considered developed pursuant to this ordinance, upon issuance of a certificate of occupancy or upon substantial completion of construction or final inspection if no such certificate is issued or where construction is at least 50% complete and construction is halted for a period of three months.
- (o) Utility. The Storm water Utility of the City of Green Bay.

(5) RATES AND CHARGES.

- (a) By this ordinance, the Board is establishing the basis for the rates that will be used to calculate and impose a charge upon each developed lot and parcel within the City for services and facilities provided by the Storm water Utility consistent with this ordinance.
- (b) The amount of the charge to be imposed for each customer classification shall be made by resolution. All rates established pursuant to this chapter will be fair and reasonable. The current rates will be on file with the City Clerk.
- (c) An ERU charge shall be imposed to recover all or a portion of the costs of the Storm water Utility.

(6) CREDITS. (Amd. GO 57-04)

(a) The Utility may provide credits against the ERU determination for non-residential property in the following cases:

1. Discharging storm water runoff directly to the waters of Green Bay, Fox River or East River, the ERU credit shall be two-thirds of all ERUs located on the portion of property discharging directly to the above-named waters.

2. A 10% credit in the number of ERUs will be provided to those properties within the non-residential customer classification that provide privately constructed and maintained detention or retention facilities that restrict surface water discharge to the rate and volume as established in the City storm drainage standards for public and private development. This credit does not apply to those ERUs receiving credit in subsection 1. above.

(b) A 10% credit in the number of ERUs will be provided to those properties within the residential – multifamily, including condominiums, customer classification that provide privately constructed and maintained detention or retention facilities that restrict surface water discharge to the rate and volume as established in the City storm drainage standards for public and private development.

(c) To be entitled to consideration for an ERU credit, the property owner shall file an application together with a review fee with the Administrator that is supported by documentation from a professional engineer and demonstrates the conditions of this section have been met. The application is subject to review and approval of the Administrator. If the Administrator needs additional engineering expertise to complete his review, the Administrator can deny the application unless the property owner agrees to pay for the necessary engineering services.

(d) The Administrator may revoke the credit if the basis for the credit has materially changed. The Administrator shall provide a 30 days advance written notice of any proposed revocation.

(e) A denial or revocation of any credit may be appealed under GBMC § 30.20(9).

(7) CUSTOMER CLASSIFICATIONS. (Amd. GO 57-04)

(a) For purposes of imposing the ERU charge, all lots and parcels within the City shall be classified into the following five customer classes:

1. Residential – Single Family;
 2. Residential – Duplex;
 3. Residential – Multifamily, including Condominiums;
 4. Non-residential; and
 5. Undeveloped.
- (b) The Administrator shall prepare a list of lots within the City and assign a customer classification to each lot or parcel.
- (c) ERUs shall be calculated per classification as follows:
1. Residential – Single Family: The impervious area for each single family parcel unit shall be determined by the Administrator based on the best available information, including, but not limited to, data supplied by the City Assessor divided by 0.75, aerial photograph, the property owner, tenant or developer or actual on-site measurement. The ERU for each single-family parcel shall be equal to the calculated impervious area divided by 3,000 square feet (rounded to the next higher 0.01). The ERU determination shall be updated by the Administrator based on any additions to the impervious area as approved through the building permit process.
 2. Residential – Duplex: The impervious area for each duplex parcel unit shall be determined by the Administrator based on the best available information, including, but not limited to, data supplied by the City Assessor divided by 0.75, aerial photograph, the property owner, tenant or developer or actual on-site measurement. The ERU for each duplex unit shall be equal to one-half of the calculated impervious area divided by 3,000 square feet (rounded to the next higher 0.01). The ERU determination shall be updated by the Administrator based on any additions to the impervious area as approved through the building permit process.
 3. Residential – Multifamily: The ERU for each multifamily unit shall be determined by the Administrator based on the best available information, including, but not limited to, data supplied by the City Assessor, aerial photograph, the property owner, tenant or developer or actual on-site measurement. The Administrator may require additional information as necessary to make the determination. The ERU value for residential multifamily property shall consist of its determined impervious area divided by 3,000 square feet and the number of units on the property (rounded to the next higher 0.01 ERU) to determine the per unit ERU value. The ERU

determination shall be updated by the Administrator based on any additions to the impervious area as approved through the building permit process.

4. For non-residential properties, the Administrator shall be responsible for determining the impervious area based on the best available information, including, but not limited to, data supplied by the City Assessor, aerial photograph, the property owner, tenant or developer or actual on-site measurement. The Administrator may require additional information as necessary to make the determination. The ERU value for a non-residential property shall consist of its determined impervious area divided by the residential ERU value of 3,000 square feet (rounded to the next higher 0.01 ERU). The billing amount shall be updated by the Administrator based on any additions to the impervious area as approved through the building permit process.

5. Undeveloped Properties: No ERU.

- (d) The City may make such other classifications in accordance with §30.20(7) as will be likely to provide reasonable and fair distribution of the costs of the Storm water Utility.

(8) BILLING AND PENALTIES.

- (a) Storm water Utility charges will be billed periodically with said charges to appear on the bill issued for municipal water and sanitary sewer service.
- (b) The bills for Storm water Utility charges shall be mailed to the designated utility bill recipient, but this mailing shall not relieve the owner of the property from liability for rental property in the event payment is not made as required in this ordinance. The owner of any property served which is occupied by tenants shall have the right to examine collection records of the City for the purpose of determining whether such charges have been paid for such tenants, provided that such examination shall be made at the office at which the records are kept and during the hours that such office is open for business.
- (c) If Storm water Utility charges remain unpaid after a period of 30 days from the date the utility bill was mailed, such bill shall be determined delinquent. The City may collect delinquent charges under Wis. Stats. §§ 66.0821(4) and 66.0809(3).
- (d) All delinquent charges shall be subject to a 1% penalty per month in addition to all other charges, including prior penalties or interest that exist when the delinquent charge is extended upon the tax roll.

(9) METHOD OF APPEAL.

- (a) (Amd. GO 57-04) The Storm water Utility charge, a determination of ERUs or ERU credits may be appealed by filing a written appeal with the City Clerk prior to the utility charge due date if not paid or within 30 days of payment. The appeal shall specify all bases for the challenge and the amount of the storm water charge the customer asserts is appropriate. Failure to file a timely challenge and specify all bases for the challenge waives all right to later challenge that charge. An appeal of the determination of an ERU shall be supported by documentation from a professional engineer/registered land surveyor.
- (b) The Administrator will determine whether the storm water charge is fair and reasonable or whether a refund is due the customer. The Administrator may act with or without a hearing and will inform the customer in writing of his or her decision.
- (c) The customer has 30 days from the decision of the Administrator to file a written appeal to the City of Green Bay Improvement and Services Committee. In considering an appeal, the City of Green Bay Improvement and Services Committee shall determine whether the storm water utility charge is fair and reasonable and, in the event the appeal is granted, whether or not a refund is due the appellant and the amount of the refund. The committee shall conduct a formal or informal hearing and obtain sufficient facts upon which to make a determination. The committee's decision shall be based upon the evidence presented to it. After making such determination, the Improvement and Services Committee shall forward its recommendation to the Common Council for final approval.
- (d) If it is determined that a refund is due the customer, the refund will be applied as a credit on the customer's next storm water billing if the refund will not exceed the customer's next storm water billing or will be refunded at the discretion of the Administrator.

(10) SPECIAL ASSESSMENT AND CHARGES.

- (a) In addition to any other method for collection of the charges established pursuant to this ordinance for Storm water Utility costs, the City finds that these charges may be levied on property as a special charge pursuant to Wis. Stats. § 66.0627. The charges established hereunder reasonably reflect the benefits conferred on property and may be assessed as special charges. The mailing of the bill for such charges to the owner will serve as notice to the owner that failure to pay the charges when due may result in them being charged pursuant to the authority of Wis. Stats. § 66.0627(4) and placed upon the tax roll.

(b) In addition to any other method of charging for Storm water Utility costs, the City may, by resolution, collect special assessments on property in a limited and determinable area for special benefits conferred upon property pursuant to Wis. Stats. § 66.0703. The failure to pay such special assessments may result in a lien on the property enforced pursuant to Wis. Stats. § 66.0703(13).

(11) SEVERABILITY. If any provision of this ordinance is found to be illegal, the remaining provisions shall remain in effect.

Moved by Ald. Moore, seconded by Ald. Scannell to adopt the ordinance.

Roll call: Ayes: Dorff, DeWane, Nicholson, Galvin, Nennig, Moore, Scannell, Wery, Zima, Steuer, Vander Leest, Sladek. Noes: None. Motion carried.

GENERAL ORDINANCE NO. 13-16

AN ORDINANCE AMENDING CHAPTER 34, GREEN BAY MUNICIPAL CODE, RELATING TO CONSTRUCTION SITE EROSION CONTROL

THE COMMON COUNCIL OF THE CITY OF GREEN BAY DOES ORDAIN AS
FOLLOWS:

SECTION 1. Chapter 34, Green Bay Municipal Code, is hereby amended. A copy of the changes to Chapter 34 is attached hereto.

SECTION 2. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed.

SECTION 3. This ordinance shall take effect on and after its passage and publication.

Dated at Green Bay, Wisconsin this 19th day of July, 2016.

APPROVED:

James J. Schmitt
Mayor

ATTEST:

Kris A. Teske
Clerk

CHAPTER 34

CONSTRUCTION SITE EROSION CONTROL

34.01	Authority
34.02	Findings of Fact
34.03	Purpose
34.04	Applicability and Jurisdiction
34.05	Definitions
34.06	<u>Applicability of Maximum Extent Practicable</u>
34.07	Technical Standards
34.08	<u>Performance Standards for Construction Sites Not Required to be Permitted</u>
34.09	<u>Performance Standards for Construction Sites Required to be Permitted</u>
34.10	Permitting Requirements, Procedures and Fees
34.11	Erosion and Sediment Control Plan, Statement and Amendments
34.12	Fee Schedule
34.13	Inspection
34.14	Enforcement
34.15	Appeals
34.16	Severability

34.01 AUTHORITY.

- (1) This ordinance is adopted under the authority granted by s. 62.234, Wis. Stats., ~~for cities.~~ This ordinance supersedes all provisions of an ordinance previously enacted under s. 62.23, Wis. Stats., that relate to construction site erosion control. Except as otherwise specified in s. 62.234 Wis. Stats., s. 62.23, Wis. Stats., applies to this ordinance and to any amendments to this ordinance.
- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.
- (3) The City Council hereby designates the ~~Planning Director to administer and enforce the provisions of this ordinance within Private Property and the~~ Director of Public Works to administer and enforce the provisions of this ordinance ~~within the Public Right-of-Way~~ hereby known as the Administering Authority.
- (4) The requirements of this ordinance do not pre-empt more stringent erosion and sediment control requirements that may be imposed by any of the following:
 - (a) Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under ss. 281.16 and 283.33, Wis. Stats.
 - (b) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code.

34.02 FINDINGS OF FACT. The City Council finds that runoff from land disturbing construction activities and land development activities carries significant amount of sediment and other pollutants to the waters of the state in the City of Green Bay.

34.03 PURPOSE. It is the purpose of this ordinance to protect and promote the health, safety and welfare of the people; **maintain safe and healthful conditions**; prevent and control water pollution; prevent and control soil erosion; protect spawning grounds, fish and aquatic life; preserve the natural resources, control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth, to the maximum extent practicable by minimizing the amount of sediment and other pollutants carried by runoff or discharged from land disturbing ~~or~~ construction activity to **waters of the state**, lakes, streams and wetlands in the City of Green Bay.

34.04 APPLICABILITY AND JURISDICTION.

(1) APPLICABILITY.

- (a)** ~~This ordinance applies to the~~ **The** following types of land development or land disturbing construction activities **are required to be permitted** except as provided under sub. (b):
 1. Those involving grading, removal of protective ground cover or vegetation, excavation, land filling, or other land-disturbing construction activity affecting a surface area of 4,000 sq. ft. or more.
 2. Those requiring a subdivision plat **or certified survey** approval or the construction of **1- and 2-family residential dwellings** ~~houses~~ or commercial, industrial, or institutional buildings on lots of approved subdivision plats.

3. Those requiring a certified survey approval or the construction of houses or commercial, industrial, or institutional buildings on lots of approved certified surveys.
4. Those involving street, highway, road, or bridge construction, enlargement, relocation, or reconstruction.
5. A construction site, which has 100 linear feet or greater of land disturbance to a highway, street, driveway, swale, ditch, waters of the state, wetland, protective area, or other non-agricultural drainage facility which conveys concentrated flow. Wetlands shall be delineated in accordance with s. NR 103.08(1m).
6. Those involving the laying, repairing, replacing, or enlarging of an underground pipe, wire, cable, or facility for a distance of 300' or more.
7. A construction site which has 100 cubic yards or greater of excavation volume, filling volume, or some combination of excavation and filling volume.

(b) This ordinance does not apply to the following:

- ~~1. Land disturbing construction activity that includes the construction of 1 and 2 family residential dwellings that are not part of a larger common plan of development or sale and that result in less than 1 acre of disturbance. These construction sites are regulated by the Wisconsin Department of Commerce under s. COMM 21.125 Wis. Adm. Code.~~
1. **Transportation facilities, except transportation facility construction projects that are part of a larger common plan of development such as local roads within a residential or industrial development.**
2. A construction project that is exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit issued under Chapter 40, Code of Federal Regulations, part 122, for land disturbing construction activity.
3. Nonpoint discharges from agricultural activity areas **facilities and practices**.
4. Nonpoint discharges from silviculture activities.
5. Mill and crush operations.
6. **Routine maintenance for project sites that have less than 5 acres of land disturbance if performed to maintain the original line and grade, hydraulic, capacity or original purpose of the facility.**

(c) Land development or land disturbance activities that do not meet the criteria in (a) or (b) above are non-permitted sites and shall meet the requirements within s.34.08.

(ed) Notwithstanding the applicability requirements in paragraph (a), this ordinance applies to construction sites of any size that, ~~in the opinion of~~ **as determined by** the Administering Authority, are likely to result in runoff that exceeds the safe capacity

of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

- (2) JURISDICTION. This ordinance applies to land disturbing construction activity on construction sites and land-developing activities located ~~lands~~ within the boundaries and jurisdiction of the City of Green Bay.
- (3) EXCLUSIONS. This ordinance is not applicable to activities conducted by a state agency, as defined under s. 227.01 (1), Wis. Stats., but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under s. 281.33 (2), Wis. Stats.

34.05 DEFINITIONS.

- (1) “Administering Authority” means a governmental employee, or a regional planning commission empowered under s. 62.234, Wis. Stats., that is designated by the City Council to administer this ordinance.
- (2) “Agricultural activity area” means the part of the farm where there is planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or outside yarding of livestock, including sod farms and silviculture. Practices in this area may include waterways, drainage ditches, diversions, terraces, farm lanes, excavation, filling and similar practices. The agricultural activity area does not include the agricultural production area.
- (3) “Agricultural production area” means the part of the farm where there is concentrated production activity or impervious surfaces. Agricultural production areas include buildings, driveways, parking areas, feed storage structures, manure storage structures, and other impervious surfaces. The agricultural production area does not include the agricultural activity area.
- (4) **“Agricultural facilities and practices” has the meaning in s. 281.16(1), Wis. Stats.**
- (5) “Average annual rainfall” means a calendar year of precipitation, excluding snow, which is considered typical. For purposes of this ordinance, average annual rainfall means measured precipitation in Green Bay, Wisconsin between March 29 and November 25, 1969.
- (6) “Best management practice” or “BMP” means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.
- (7) “Business day” means a day that the office of the ~~Planning Director or~~ Director of Public Works is routinely and customarily open for business.
- (8) “Cease and desist order” means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit **or in violation of a permit issued by the Administering Authority.**
- (9) “Common plan of development or sale” means a development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan. A common plan of development or sale includes, but is not limited

to, subdivision plats, certified survey maps, and other developments.

- (10) “Construction site” means an area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development **or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan.**
- (11) **“Design Storm” means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall. The TR-55, Type II, 24-hour design storms for the City of Green Bay are: 1-year, 2.2-inches; 2-year, 2.5-inches; 5-year, 3.3-inches; 10-year, 3.8-inches; 25-year, 4.4-inches; and 100-year, 5.3-inches.**
- (12) “Development” means residential, commercial, industrial, institutional, or other land uses and associated roads.
- (13) “Division of land” means the creation from one or more parcels or building sites of additional parcels or building sites where such creation occurs at one time or through the successive partition within a 5 year period.
- (14) “Erosion” means the process by which the land’s surface is worn away by the action of wind, water, ice or gravity.
- (15) “Erosion and sediment control plan” means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.
- (16) “Extraterritorial” means the unincorporated area within 3 miles of the corporate limits of a first, second, or third class city, or within 1.5 miles of a fourth class city or village.
- (17) “Final stabilization” means that all land disturbing construction activities at the construction site have been completed and that a uniform perennial vegetative cover has been established, with a density of at least 70 percent of the cover, for the unpaved areas and areas not covered by permanent structures, or that employ equivalent permanent stabilization measures.
- (18) “Governing body” means City of Green Bay Common Council.
- (19) “Land disturbing construction activity” (or “disturbance”) means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, and soil stockpiling.
- (20) “MEP” or “maximum extent practicable” means a level of implementing best management practices in order to achieve a performance standard specified in this chapter which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the

performance standard and site conditions.

- (21) "Performance standard" means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
- (22) "Permit" means a written authorization made by the Administering Authority to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.
- (23) "Pollutant" has the meaning given in s. 283.01 (13), Wis. Stats.
- (24) "Pollution" has the meaning given in s. 281.01 (10), Wis. Stats.
- (25) "Protective area" has the meaning given in S.30.06(6) of the City of Green Bay Post-Construction Storm Water Management Ordinance.
- (26) "Responsible party" means any entity holding fee title to the property or performing services to meet the performance standards of this ordinance through a contract or other agreement.
- (27) "Runoff" means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.
- (28) "Sediment" means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.
- (29) "Separate storm sewer" means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:
 - (a) Is designed or used for collecting water or conveying runoff.
 - (b) Is not part of a combined sewer system.
 - (c) Is not draining to a storm water treatment device or system.
 - (d) Discharges directly or indirectly to waters of the state.
- (30) "Site" means the entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application.
- (31) "Stop work order" means an order issued by the Planning Director or Director of Public Works, which requires that all construction activity on the site be stopped.
- (32) "Technical standard" means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.
- (33) **"Transportation facility" means a highway, a railroad, a public mass transit facility, a public-use airport, a public trail or any other public work for transportation purposes such as harbor improvements under s. 85.095 (1)(b), Wis. Stats. "Transportation facility" does not include building sites for the**

construction of public buildings and buildings that are places of employment that are regulated by the Department pursuant to s. 281.33, Wis. Stats.

- (34) “Type II distribution” means a rainfall type curve as established in the “United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973”. The Type II curve is applicable to all of Wisconsin and represents the most intense storm pattern.

- (35) “Waters of the state” has the meaning given in s. 281.01 (18), Wis. Stats.

34.06 APPLICABILITY OF MAXIMUM EXTENT PRACTICABLE.

Maximum extent practicable applies when a person who is subject to a performance standard of this ordinance demonstrates to the administering authority’s satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the responsible party shall take into account the best available technology, cost effectiveness, geographic features, and other competing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.

34.07 TECHNICAL STANDARDS.

- (1) DESIGN CRITERIA, STANDARDS AND SPECIFICATIONS. All BMPs required to comply for compliance with this ordinance shall meet the design criteria, standards and specifications based on any of the following:

- (a) Design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.
- (b) Technical standards and other guidance identified within the City of Green Bay Storm Water Reference Guide.
- (c) For this ordinance, average annual basis is calculated using the appropriate annual rainfall or runoff factor, also referred to as the R factor, or an equivalent design storm using a type II distribution, with consideration given to the geographic location of the site and the period of disturbance.
- (d) Soil loss prediction tools (such as the Universal Soil Loss Equation (USLE)) when using an appropriate rainfall or runoff factor (also referred to as the R factor) or an equivalent design Type II distribution storm, and when considering the geographic location of the site and the period of disturbance.

Note to Users: The USLE and its successors RUSLE and RUSLE2, utilize an R factor which has been developed to estimate annual soil erosion, averaged over extended time periods. The R factor can be modified to estimate monthly and single-storm erosion.

~~The USLE and its successors RUSLE and RUSLE2, utilize an R factor which has been developed to estimate annual soil erosion, averaged over extended time periods. The R factor can be modified to estimate monthly and single storm erosion. A design storm can be statistically calculated to provide an equivalent R factor as an average annual calculation.~~

- (2) OTHER STANDARDS. Other technical standards not identified or developed in sub. (1), may be used provided that the methods have been approved by the Administering Authority.

34.08 PERFORMANCE STANDARDS FOR CONSTRUCTION SITES NOT REQUIRED TO BE PERMITTED UNDER ONE ACRE.

- (1) RESPONSIBLE PARTY. The landowner of the construction site or other person contracted or obligated by other agreement with the landowner to implement and maintain construction site BMPs is the responsible party and shall comply with this section.**

- (2) EROSION AND SEDIMENT CONTROL PRACTICES. Erosion and sediment control practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce all of the following:**

(a) The deposition of soil from being tracked onto streets by vehicles.

(b) The discharge of sediment from disturbed areas into on-site storm water inlets.

(c) The discharge of sediment from disturbed areas into adjacent waters of the state.

(d) The discharge of sediment from drainage ways that flow off the site.

(e) The discharge of sediment by dewatering activities.

(f) The discharge of sediment eroding from soil stockpiles existing for more than 7 days.

(g) The transport by runoff into waters of the state of chemicals, cement, and other building compounds and materials on the construction site during the construction period. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this subdivision.

- (3) LOCATION. The BMPs shall be located so that treatment occurs before runoff enters waters of the state.**

- (4) IMPLEMENTATION. The BMPs used to comply with this section shall be implemented as follows:**

(a) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin.

(b) Erosion and sediment control practices shall be maintained until final stabilization.

(c) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.

(d) Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.

(e) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

34.09 PERFORMANCE STANDARDS FOR CONSTRUCTION SITES OF ONE ACRE OR MORE REQUIRED TO BE PERMITTED.

(1) RESPONSIBLE PARTY. The responsible party shall implement an erosion and sediment control plan, developed in accordance with S.34.11 that incorporates the requirements of this section.

(2) **EROSION AND SEDIMENT CONTROL PLAN.** A written **site specific** erosion and sediment control plan shall be developed in accordance with S.34.11 and implemented for each construction site.

(a) PREVENTIVE MEASURES. The erosion and sediment control plan shall also incorporate all of the following:

1. **Maintenance of existing vegetation, especially adjacent to surface waters whenever possible.**

2. **Minimization of soil compaction and preservation of topsoil.**

3. **Minimization of land disturbing construction activity on slopes of 20 percent or more.**

4. **Development of spill prevention and response procedures.**

(b) Where appropriate, the plan shall include sediment controls **practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce** ~~to do~~ all of the following to the maximum extent practicable:

1. Prevent tracking of sediment from the construction site onto roads and other paved surfaces. Each site shall have graveled roads, access drives, and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed at a minimum before the end of each workday, and more frequently if tracking is occurring. ~~The deposition of soil from being tracked onto streets by vehicles.~~
2. Prevent the discharge of sediment as part of site de-watering. Water pumped from the site shall be treated by temporary sedimentation basins or other appropriate controls for the highest dewatering pumping rate. Dewatering must also comply with WDNR rules.

Water may not be discharged in a manner that causes erosion of the site or receiving channels.

~~3. The discharge of sediment by dewatering activities.~~

3. Protect the separate storm drain inlet structure from receiving sediment.

~~2. The discharge of sediment from disturbed areas into on-site storm water inlets.~~

4. The discharge of sediment from disturbed areas into adjacent waters of the state.

5. The discharge of sediment from drainage ways that flow off the site.

6. The discharge of sediment eroding from soil stockpiles existing for more than 7 days.

7. The discharge of sediment from erosive flows at outlets and in downstream channels.

8. The transport by runoff into waters of the state of untreated wash water from vehicle and wheel washing.

9. The use, storage and disposal of building materials, debris, garbage, chemicals, cement, concrete truck washout, litter, sanitary waste, toxic materials, hazardous materials, cleaning wastes, and other compounds and materials used on the construction site shall be managed during the construction period, to prevent their entrance into storm sewers and waters of the state. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this paragraph provided they have appropriate permits.

~~8. The transport by runoff into waters of the state of chemicals, cement, and other building compounds and materials on the construction site during the construction period. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this subdivision.~~

(3) EROSION AND SEDIMENT CONTROL REQUIREMENTS. The erosion and sediment control plan ~~required under sub.(2)~~ shall meet the following minimum requirements to the maximum extent practicable:

(a) BMPs shall be designed, installed, **inspected** and maintained to control total suspended solids carried in runoff from the construction site as follows.

1. For **permitted** construction sites ~~with 1 acre or greater~~ of land disturbing construction activity, reduce the total suspended solids load by 80%, on an average annual basis, as compared with no sediment or erosion controls until the construction site has undergone final stabilization. No person shall be required to exceed an 80% sediment reduction to meet the requirements of this paragraph. Erosion and sediment control BMPs may be used alone or in combination to meet the requirements of this paragraph. Credit toward meeting the sediment reduction shall be given for limiting the duration or area, or both, of land disturbing construction activity, or other appropriate mechanism.

- ~~2. (NON PERMITTED SITES) For construction sites with less than 1 acre of land disturbing construction activity, reduce the total suspended solids load by 80%, on an average annual basis, as compared with no sediment or erosion controls until the construction site has undergone final stabilization. No person shall be required to exceed an 80% sediment reduction to meet the requirements of this paragraph. Erosion and sediment control BMPs may be used alone or in combination to meet the requirements of this paragraph. Credit toward meeting the sediment reduction shall be given for limiting the duration or area, or both, of land disturbing construction activity, or other appropriate mechanism.~~
- 2. Soil loss prediction tools that estimate the sediment load leaving the construction site under varying land and management conditions, or methodology identified in subch. V. of ch. NR 151, Wis. Adm. Code, may shall be used to calculate sediment reduction. The soil loss prediction tool must show that ± BMPs that, by design, discharge no more than 5 tons per acre per year, or to the maximum extent practicable, of the sediment load carried in runoff from initial grading to final stabilization.**
- 3. No person shall be required to employ more BMPs than are needed to meet a performance standard in order to comply with maximum extent practicable. Erosion and sediment control BMPs may be combined to meet the requirements of this paragraph. Credit may be given toward meeting the sediment performance standard of this paragraph for limiting the duration or area, or both, of land disturbing construction activity, or for other appropriate mechanisms.**
- (b) Notwithstanding par. (a), if BMPs cannot be designed and implemented to reduce the sediment load by 80%, on an average annual basis, the plan shall include a written and site-specific explanation as to why the 80% reduction goal is not attainable and the sediment load shall be reduced to the maximum extent practicable.
- ~~3. Notwithstanding subd. 1., if BMPs cannot be designed and implemented to meet the sediment performance standard, the erosion and sediment control plan shall include a written, site-specific explanation of why the sediment performance standard cannot be met and how the sediment load will be reduced to the maximum extent practicable.~~
- (c) Site Erosion Control. The following criteria apply only to land development or land-disturbing construction activities that result in runoff leaving the site:
1. Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected as described below in par. 3(b) or 3(c). Sheet flow runoff from adjacent areas greater than 10,000 sq. ft. in area shall also be diverted around disturbed areas, unless shown to have resultant runoff velocities of less than 0.5Ft./sec. across the disturbed area for the set of one year design storms. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels.
 2. All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time.

3. Runoff from the entire disturbed area on the site shall be controlled by meeting either sub. a. and b. or a. and c. and WDNR Technical Standards, whichever is more restrictive.
 - a. All disturbed ground left inactive for 15 or more days shall be stabilized by mulching, temporary or permanent seeding, sodding, covering with tarps, or equivalent control measures. Seeding and sodding may only be used from May 1 to September 15 of any year. If temporary seeding is used, a permanent cover shall also be required as part of the final site stabilization.
 - b. For sites with 10 or more acres disturbed at one time, or if a channel originates in the disturbed area, one or more sedimentation basins shall be constructed. Sedimentation basins shall be designed, constructed and maintained per WDNR Technical Standards. At a minimum each sedimentation basin shall have a surface area of at least 1% of the area draining to the basin and at least 3' of depth. Sediment shall be removed to maintain a depth of 3'. The basin shall be designed to trap sediment greater than 15 microns in size, based on the set of 1-year design storms having duration from 0.5 to 24 hours. The basin discharge rate shall also be sufficiently low as to not cause erosion along the discharge channel or the receiving water.
 - c. For sites with less than 10 acres disturbed at one time, filter fences, straw bales, or equivalent control measures shall be placed along all sideslope and downslope sides of the site. If a channel or area of concentrated runoff passes through the site, filter fences shall be placed along the channel edges to reduce sediment reaching the channel.
 - d. Runoff from sites or slopes of 12% or more may require additional or different control methods which are not listed in **Section** 3 above.
- (d) Any soil or dirt storage piles containing more than 10 cu. yds. of material should not be located with a down slope drainage length of less than 25' to a roadway or drainage channel. If remaining for 15 days or more, the piles shall be stabilized by mulching, vegetative cover, tarps, or other means. Erosion from piles which will be in existence for less than 15 days shall be controlled by placing straw bales or filter fence barriers around the pile. In-street utility repair or construction, soil or dirt storage piles located closer than 25' of a roadway or drainage channel must be covered with tarps or suitable alternative control, when exposed for more than 15 days, and the storm drain inlets must be protected with straw bale or other appropriate filtering barriers.
- (4) **LOCATION.** The BMPs used to comply with this section shall be located prior to runoff entering waters of the state or regional storm water treatment facilities. Regional storm water treatment facilities are appropriate for control of post-construction pollutants, they should not be used for construction site sediment removal.
- (5) **IMPLEMENTATION.** The BMPs used to comply with this section shall be implemented as follows:

(a) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin in accordance with the erosion and sediment control plan developed in S. 34.11.

(b) Erosion and sediment control practices shall be inspected and maintained until final stabilization.

(c) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.

(d) Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.

(e) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

- (6) ALTERNATE REQUIREMENTS. The Administering Authority may establish requirements more stringent than those set forth in this section if the Administering Authority determines that an added level of protection is needed for sensitive resources.

34.10 PERMITTING REQUIREMENTS, PROCEDURES AND FEES.

- (1) PERMIT REQUIRED. No landowner, land user or responsible party may commence a land disturbing ~~construction~~ activity subject to this ordinance without receiving prior approval of an erosion and sediment control plan for the site and a permit from the Administering Authority.

- (2) PERMIT APPLICATION AND FEE. At least one landowner, land user controlling or using the site ~~responsible~~, or party desiring to, **or responsible party that will** undertake a land disturbing construction activity or land developing activity subject to this ordinance shall submit an application for a permit and an erosion and sediment control plan that meets the requirements of S.34.11 and shall pay an application fee as shown in the Fee Schedule to the Administering Authority. By submitting an application, the applicant is authorizing the Administering Authority to enter the site to obtain information required for the review of the erosion and sediment control plan.

- (3) ~~REVIEW AND APPROVAL OF PERMIT APPLICATION.~~ **PERMIT APPLICATION REVIEW AND APPROVAL.** The Administering Authority shall review any permit application that is submitted with an erosion and sediment control plan, and the required fee. The following approval procedure shall be used:

- (a) Within 15 business days of the receipt of a complete permit application, as required by sub. (2), the Administering Authority shall inform the applicant whether the application and plan are approved or disapproved based on the requirements of this ordinance.
- (b) If the permit application and **erosion and sediment control** plan are approved, the Administering Authority shall issue the permit.

- (c) If the permit application or **erosion and sediment control** plan is disapproved, the Administering Authority shall state in writing the reasons for disapproval.
 - (d) The Administering Authority may request additional information from the applicant. If additional information is submitted, the Administering Authority shall have 15 business days from the date the additional information is received to inform the applicant that the **erosion and sediment control** plan is either approved or disapproved.
 - (e) Failure by the Administering Authority to inform the permit applicant of a decision within 15 business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.
- (4) SURETY BOND. As a condition of approval and issuance of the permit, the Administering Authority ~~may~~ **shall** require the applicant to deposit a surety bond, cash escrow, or irrevocable letter of credit to guarantee a good faith execution of the approved erosion control plan and any permit conditions.
- (5) PERMIT REQUIREMENTS. All permits shall require the responsible party to:
- (a) **Install all BMPs as identified in the approved erosion and sediment control plan.**
 - (b) **Notify the Administering Authority upon completion of the initial BMP installation to request a BMP inspection prior to commencing further land disturbing construction activity or land developing activity.**
 - (c) Notify the Administering Authority within 48 hours of commencing any land disturbing construction activity or land developing activity.
 - (d) Notify the Administering Authority of completion of any **supplemental** BMPs within **5** ~~business~~ **calendar** days after their installation.
 - (e) Obtain permission in writing from the Administering Authority prior to any modification pursuant to S.34.11(3) of the erosion and sediment control plan.
 - (f) Maintain all road drainage systems, storm water drainage systems, BMPs and other facilities identified in the erosion and sediment control plan.
 - (g) Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land disturbing construction activities **[or land developing activity]** and document repairs in weekly **site** inspection reports.
 - (h) ~~Inspect the BMPs within 24 hours after each rain of 0.5 inches or more which results in runoff during active construction periods, and at least once each week. Make needed repairs and install additional BMPs as necessary, and document these activities in an inspection log that also includes the date of inspection, the name of the person conducting the inspection, and a description of the present phase of the construction at the site. Conduct construction site inspections at least once per week and within 24 hours after a precipitation event of 0.5 inches or greater. Repair or replace erosion and sediment control BMPs as necessary within 24 hours of an~~

inspection or notification that repair or replacement is needed. Maintain, at the construction site, weekly written reports of all inspections. Weekly inspection reports shall include all of the following: date, time and location of the construction site inspection; the name of individual who performed the inspection; an assessment of the condition of erosion and sediment controls; a description of any erosion and sediment control BMP implementation and maintenance performed; and a description of the present phase of land disturbing construction activity at the construction site. **Submit a copy of the weekly inspection report electronically to the Administering Authority.**

- (i) Allow the Administering Authority to enter the site for the purpose of inspecting compliance with the erosion and sediment control plan or for performing any work necessary to bring the site into compliance with the **erosion and sediment** control plan.
 - (j) Keep a copy of the erosion and sediment control plan, storm water management plan, amendments, weekly inspection reports, and permit at the construction site until permit coverage is terminated.
 - (k) The permit applicant shall post the "Certificate of Permit Coverage" in a conspicuous location at the construction site.
- (6) PERMIT CONDITIONS. Permits issued under this section may include conditions established by Administering Authority in addition to the requirements set forth in sub. (5), where needed to assure compliance with the performance standards in S.34.09.
- (7) PERMIT DURATION. Permits issued under this section shall be valid for a period of 180 days, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The Administering Authority may extend the **number of** periods one or more times for up to an additional 180 days **for each extension.** The Administering Authority may require additional BMPs as a condition of the extension if they are necessary to meet the requirements of this ordinance.
- (8) MAINTENANCE. The responsible party throughout the duration of the construction activities shall maintain all BMPs necessary to meet the requirements of this ordinance until the site has undergone final stabilization.
- (9) ALTERNATE REQUIREMENTS. The Administering Authority may prescribe requirements less stringent for applicants seeking a permit for a construction site with less than 1 acre of disturbance.
- (10) FINAL STABILIZATION. Upon final stabilization and vegetation of disturbed areas, the best management practices shall be removed.

34.11 EROSION AND SEDIMENT CONTROL PLAN, STATEMENT, AND AMENDMENTS.

- (1) **EROSION AND SEDIMENT CONTROL** PLAN REQUIREMENTS. The erosion and sediment control plan required under S.34.09(2) shall ~~comply with the City of Green Bay Storm Water Reference Guide and~~ contain at a minimum the following information:
- (a) Name, address, and telephone number of the landowner and responsible parties.

- (b) A legal description of the property proposed to be developed.
- (c) A site map of existing site conditions on a scale of at least 1" equals 100' showing the site and immediately adjacent areas:
1. Site boundaries and adjacent lands which accurately identify site location;
 2. Lakes, streams, wetlands, channels, ditches, and other water courses on the site and adjacent lands;
 3. Location of the 100-year floodplain/flood fringe and floodway.
 4. Identification of the predominant soil types;
 5. Location and general identification of the vegetative cover;
 6. Location and dimensions of storm water drainage systems and natural drainage patterns on and immediately adjacent to the site;
 7. Locations and dimensions of utilities, structures, roads, highways, and paving; and
 8. Site topography at a contour interval not to exceed 2'.
- (d) Plan of Final Site Conditions. A plan of final site conditions at the same scale as the existing site map showing the site changes.
- (e) Site Construction Plan. A site construction plan including:
1. Location and dimensions of all proposed land-disturbing construction or land-developing activities;
 2. Locations and dimensions of all temporary soil or dirt stockpiles;
 3. Performance standards applicable to the site;
 4. Proposed best management practices **with installation details**;
 5. Locations and dimensions of all construction site erosion control measures necessary to meet the requirements of this ordinance;
 6. Schedule of anticipated starting and completion date of each land-disturbing construction or land-developing activity, including the installation of construction site erosion control measures needed to meet the requirements of this ordinance; and
 7. Provisions for maintenance of the construction site erosion control measures during construction.
- (f) **Submittal of all soil loss prediction tool results and iterations.**

(2) EROSION AND SEDIMENT CONTROL PLAN STATEMENT. For each construction site identified under 34.04(1)(a), **34.04(1)(c) and 34.04(1)(d)**, an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the Administering Authority. The **erosion and sediment** control plan statement shall briefly describe the site, **the development schedule, and the BMPs that will be used to meet the requirements of the ordinance. A site map shall also accompany the erosion and sediment control plan statement.** Further, it shall also include the best management practices that will be used to meet the requirements of the ordinance, including the site development schedule.

(3) AMENDMENTS. The applicant shall amend the **erosion and sediment control** plan if any of the following occur:

(a) There is a change in design, construction, operation or maintenance at the site which has the reasonable potential for the discharge of pollutants to waters of the state and which has not otherwise been addressed in the **erosion and sediment control** plan.

(b) There is a change in construction schedule which will impact the duration the construction site is not temporarily or permanently restored.

(c) The actions required by the **erosion and sediment control** plan fail to reduce the impacts of pollutants carried by construction site runoff.

(d) The Administering Authority notifies the applicant of changes **that are required** needed in the **erosion and sediment control** plan.

(4) ALTERNATE REQUIREMENTS. The Administering Authority may prescribe requirements less stringent for applicants seeking a permit for a construction site with less than 1 acre of disturbance.

34.12 FEE SCHEDULE. The fees referred to in other sections of this ordinance shall be established by the Administering Authority and may from time to time be modified by resolution. A schedule of the fees established by the Administering Authority shall be available for review in the **Department of Public Works – Engineering or Planning / Building Inspection Department.**

34.13 INSPECTION. If land disturbing construction activities are ~~being carried out~~ **occurring** without a permit required by this ordinance, the Administering Authority may enter the land pursuant to the provisions of ss. 66.0119(1), (2), and (3), Wis. Stats.

34.14 ENFORCEMENT.

(1) Building, Site Development, and Services not **included in a** Public Works Contract.

(a) The Administering Authority ~~shall~~ **may** post a stop-work order if **any of the following occur:**

1. Any land-disturbing construction activity or land-developing activity regulated under this ordinance is ~~being undertaken~~ **occurring** without a permit;

2. The erosion **and sediment** control plan is not being implemented in a good faith manner; or
 3. The conditions of the permit are not being **satisfied** met.
- (b) If the permittee, **responsible party or individual performing the land-disturbing activity** does not cease the activity **as required in a stop work order posted under this section** or **fails to** comply with the erosion **and sediment** control plan or permit conditions within **5** 40 days, the Administering Authority shall revoke the permit.
 - (c) If the landowner or land user, **responsible party or individual performing the land-disturbing activity**, where no permit has been issued **or the permit has been revoked**, does not cease the activity within **5** 40 days **after being notified by the Administering Authority, or if a responsible party violates a stop work order posted under sub. (a)**, the Administering Authority shall request the City Attorney to obtain a cease and desist order.
 - (d) The Administering Authority or the **Improvement and Service Committee** Board of Appeals may retract the stop-work order **under sub. (a)** or the ~~permit~~ revocation **under sub. (b)**.
 - (e) ~~Five~~ **Five** Ten days after posting a stop-work order **under sub. (a)**, the Administering Authority may issue a notice of intent to the permittee, ~~or landowner, or land user or~~ **responsible party** of the Administering Authority's intent to perform work necessary to comply with this ordinance. The Administering Authority may go on the land and commence the work after 14 days from issuing the notice of intent. The costs of the work performed ~~under this subsection~~ by the Administering Authority, plus interest, shall be billed to the permittee, ~~or landowner, or land user or~~ **responsible party**. In the event a permittee, ~~or landowner, or land user or~~ **responsible party** fails to pay the amount due, the City Clerk shall enter the amount due on the tax rolls and collect as a special charge ~~assessment~~ against the property pursuant to §66.60(16) **subch. VII of ch. 66**, Wis. Stats.
 - (f) Any person violating any of the provisions of this ordinance ~~may~~ **shall** be subject to forfeiture of not less than \$50 nor more than \$500 and the costs of prosecution of each violation. Each day a violation exists shall constitute a separate offense.
 - (g) Compliance with the provisions of this ordinance may also be enforced by injunction **in any court with jurisdiction**, abatement of nuisance, or other available and appropriate remedies. **It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.**
 - (h) No building occupancy permit may be issued if any provision herein is not complied with.
- (2) **Right-of-Way and Public Utility Easements; Public Works Contract.**
- (a) The Administering Authority shall order construction halted if:
 1. The activity regulated under this ordinance is undertaken without a permit;

2. The erosion **and sediment** control plan is not being implemented in a good faith manner; or
 3. The conditions of the permit are not being met.
- (b) After the Administering Authority notifies the offender of non-compliance, the Director shall take whatever steps are necessary to enforce the **erosion and sediment control** plan, including, but not limited to, having the permittee make corrections, using its own forces, or engaging other contractors. The cost of such work by other contractors **or City forces**, plus interest, shall be billed to the permittee.

34.15 APPEALS.

- (1) **IMPROVEMENT AND SERVICE COMMITTEE. BOARD OF APPEALS** ~~The Improvement and Service Committee:~~ **The Board of Appeals created pursuant to S.13-209 of the City's ordinance pursuant to ss. 62.23(7)(e), Wis. Stats.:**

- (a) Shall hear and decide appeals for all ~~Building and Site Development~~ Sites where it is alleged that there is error in any order, decision or determination made by the Administering Authority in administering this ordinance except for cease and desist orders obtained under S.34.14(1)(c).
- (b) ~~Upon appeal, M~~may authorize, **upon appeal,** variances from the provisions of this ordinance which are not contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship; and
- (c) Shall use the rules, procedures, duties and powers authorized ~~by statute~~ in hearing and deciding appeals and authorizing variances.

(d) Shall forward its recommendation to the Common Council for final action.

- (2) WHO MAY APPEAL. Appeals to the **Improvement and Service Committee** ~~Board of Appeals~~ may be taken by any aggrieved applicant, permittee, landowner, land user, person or by any office, department, board, or bureau of the City of Green Bay affected by any order, decision or determination **made by** of the Administering Authority **in administering this ordinance.**
- (3) ~~IMPROVEMENT AND SERVICE COMMITTEE. Any applicant or permittee performing work within the Public Right of Way or Public Utility Easement may appeal any order, decision, or determination made by the Administering Authority in administering this ordinance by giving written~~ **A written notice to the Director of Public Works shall be made requesting the appeal to be heard by the Improvement and Service Committee.** ~~The Improvement and Service Committee shall hear the appeal and forward its recommendation to the Common Council for final action.~~

- 34.16 **SEVERABILITY.** If a court of competent jurisdiction judges any section, clause, provision or portion of this ordinance unconstitutional or invalid, the remainder of the ordinance shall remain in force and not be affected by such judgment.

Moved by Ald. Moore, seconded by Ald. Scannell to adopt the ordinance.

Roll call: Ayes: Dorff, DeWane, Nicholson, Galvin, Nennig, Moore, Scannell, Wery, Zima, Steuer, Vander Leest, Sladek. Noes: None. Motion carried.

ZONING ORDINANCE NO. 11-16

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 2-01 TO PERMIT A MODIFIED SETBACK ALONG THE MILITARY AVENUE ACCESS ROAD AS PART THE PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT FOR 1400 LOMBARDI AVENUE (ZP 16-25)

THE COMMON COUNCIL OF THE CITY OF GREEN BAY DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 13-108, Green Bay Municipal Code, together with the zoning map referred to therein, is hereby amended by revising Zoning Ordinance No. 2-01 to permit a modified setback along the Military Avenue Access Road:

LOT 2 OF 22 CSM 178 BNG PRT OF LOT 20 OF CLA TANKS
SUBD OF PC 12W & N1/2 OF PC 13W (Tax Parcel Number: 6-310-1)

SECTION 2. Pursuant to Section 13-1900, et seq., Green Bay Municipal Code, as they apply, the following condition is imposed:

Setbacks. The setback along the Military Avenue Access Road shall remain 15 feet for buildings and may be reduced to 0 for parking.

SECTION 3. The provisions of this ordinance, including, without limitation, the granting of a conditional-use permit and all obligations, conditions, restrictions, and limitations related thereto shall run with and be jointly and severally binding upon the fee simple owner and the beneficial owner of all or any portion of the subject property. All obligations, requirements, and rights of the owner shall run with the land and shall automatically be assigned to be binding upon and inure to the benefit of its successors and assigns, including, but not limited to, any entity acquiring any financial interest in the subject property and/or any subsequent owner and/or beneficial owner of all or any portion of the subject property.

SECTION 4. Each exhibit which is attached to this ordinance is deemed to be and is expressly made a part of and incorporated into this ordinance to the same extent as if each such exhibit and the plans identified therein had been set forth in its entirety in the body of this ordinance.

SECTION 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 6. In addition to all other remedies available to the City of Green Bay, the City may decline to issue any building or other permits otherwise required by any ordinance of this City while any violation of this ordinance remains uncured.

SECTION 7. If any provision in this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such a decision shall not affect the validity of any other provision of this ordinance. It is hereby declared to be the intention of the City of Green Bay that all provisions of this ordinance are separable.

SECTION 8. This ordinance shall not take effect until a public hearing is held thereon as provided by Section 13-204, Green Bay Municipal Code, and the adoption and publication of this ordinance.

Dated at Green Bay, Wisconsin, this 19th day of July, 2016.

APPROVED:

James J. Schmitt
Mayor

ATTEST:

Kris A. Teske
Clerk

Moved by Ald. Scannell, seconded by Ald. Dorff to adopt the ordinance.

Roll call: Ayes: Dorff, DeWane, Nicholson, Galvin, Nennig, Moore, Scannell, Wery, Zima, Steuer, Vander Leest, Sladek. Noes: None. Motion carried.

ZONING ORDINANCE NO. 12-16

**AN ORDINANCE
REZONING PROPERTY LOCATED
AT 1930 BART STARR DRIVE
FROM GENERAL INDUSTRIAL (GI) DISTRICT
TO GENERAL COMMERCIAL (C1) DISTRICT
(ZP 16-29)**

THE COMMON COUNCIL OF THE CITY OF GREEN BAY DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 13-108, Green Bay Municipal Code, together with the zoning map referred to therein, is hereby amended by rezoning the following described property from General Industrial (GI) District to General Commercial (C1) District:

THAT PRT OF LOT 8 MORRIS & BROMLEYS SUBD OF S1/2 OF
PC 13 WSFR AS DESC IN 871 R 119 (Tax Parcel Number 1-1841-E-3)

SECTION 2. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed.

SECTION 3. This ordinance shall not take effect until a public hearing is held thereon as provided by Section 13-204, Green Bay Municipal Code, and the adoption and publication of this ordinance.

Dated at Green Bay, Wisconsin, this 19th day of July, 2016.

APPROVED:

James J. Schmitt
Mayor

ATTEST:

Kris A. Teske
Clerk

Moved by Ald. Scannell, seconded by Ald. Dorff to adopt the ordinance.

Roll call: Ayes: Dorff, DeWane, Nicholson, Galvin, Nennig, Moore, Scannell, Wery, Zima, Steuer, Vander Leest, Sladek. Noes: None. Motion carried.

GRADE ORDINANCES

An ordinance to fix and permanently establish the grade of Adams Street – Main Street to Elm Street.

An ordinance to fix and permanently establish the grade of Maple Avenue – Howard Street to Walnut Street.

An ordinance to fix and permanently establish the grade of Marshall Avenue – Mather Street to Desnoyers Street.

An ordinance to fix and permanently establish the grade of Oakland Avenue – Howard Street to Walnut Street.

Moved by Ald. Scannell, seconded by Ald. Moore to suspend the rules for the purpose of adopting the Grade Ordinances with one roll call vote. Motion carried.

Moved by Ald. Moore, seconded by Ald. Scannell to adopt the Grade Ordinances.

Roll call: Ayes: Dorff, DeWane, Nicholson, Galvin, Nennig, Moore, Scannell, Wery, Zima, Steuer, Vander Leest, Sladek. Noes: None. Motion carried.

Moved by Ald. Scannell, seconded by Ald. Nennig to adjourn at 11:12 P.M. Motion carried.

Anita M. Raleigh
Deputy City Clerk